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REPORT
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DAIRY AND DISASTER ASSISTANCE ACT OF 1991

OCTOBER 25 (legislative day, SEPTEMBER 19), 1991.—Ordered to be printed

Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 2893]

The Committee on Agriculture, Nutrition, and Forestry to which was referred the bill (H.R. 2893) to establish a price support and stabilization program for the production of milk that will increase producer prices and balance the supply and demand for diary products, to extend to 1991 crops the disaster assistance provisions of the Food, Agriculture, Conservation, and Trade Act of 1990, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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TITLE I—DAIRY

SUMMARY OF LEGISLATION

The bill amends the Agricultural Act of 1949 to raise the price support level of milk, establish recourse loans for dairy products, and create a surplus reduction and prevention program. It contains provisions to minimize the legislation's effect on the Nation's livestock sector. The bill would increase the nutritional content of beverage milk. It also mandates sales of dairy products to the Soviet Union and its former republics.

SUMMARY OF NEED FOR THE LEGISLATION

Major changes in dairy policy in the last decade have both dramatically cut the prices dairy farmers receive and increased price instability.

The effect of the price reduction on dairy farmers is clear.

Between 1980 and 1990 the Federal dairy price support level was cut by 29 percent. During the same decade, 40 percent of the Nation's dairy farms have gone out of business.

The situation is worsening. In 1991 dairy prices will be 13–15 percent below 1990 levels.

Prices in 1991 are expected to be almost $2 below the most recent USDA estimate of the cost of production.

While farmers' dairy prices have declined, price instability has increased to three times the early 1980's level. The difference between the low and high prices is much greater than it has been.

This instability is very costly to other sectors of the economy.

When prices are unstable, consumers often do not benefit from lower producer prices. Instability is costly to consumers because retailers will tend to keep retail prices high even when product prices fall so that they can maintain as much of their profits as possible when the cost of milk products increases in the future. For example, the GAO reports that while milk prices declined steadily from August 1990 through April 1991, retail prices actually increased from August through October before slightly decreasing through May 1991. Over this entire period, milk prices at the farm level decreased 21.5 percent while at the retail level they decreased only 4.6 percent.

Instability in dairy prices also hurts other agricultural sectors. When dairy prices drop dramatically, dairy farmers sell cows, thereby lowering meat prices to cattle producers. USDA reports that twice as many dairy cows have been sold in the first half of 1991 than were sold in a similar period in 1990.

Thus this legislation is needed to restore stability in the sector to benefit producers, processors, and consumers.

SUMMARY OF HOW IT WILL WORK

In the early 1980's, when dairy prices were very high, the program was plagued with expensive surpluses, paid for by the taxpayer. In response, Congress made dramatic reductions in dairy price support levels which has eliminated these large surpluses. Some

purchases are still made to prevent the price from dropping below $10.10 per hundredweight.

To address the major financial problems faced by dairy farmers, dairy prices must be increased. Price increases can cause increased production, surpluses, and taxpayer costs.

A similar problem is faced by all agricultural programs. To avoid costly surplus production most farm programs (corn, wheat, cotton, rice) require producers to agree to reduce production if necessary to avoid surpluses. Farmers agree to these conditions in order to obtain income support.

This bill will establish a similar program for dairy farmers. Dairy farmers will receive incentive payments to decrease production. These payments will be financed by assessments on the milk production of those farmers who decide either not to freeze or not to reduce their production.

By controlling production through this voluntary program, greater stability can be brought to the industry while providing higher income for farmers without increasing taxpayer costs.

Background and Justification

The dairy sector is an important part of American agriculture. It accounted for more than 10 percent of total cash receipts from all farm commodities in 1990. In terms of cash receipts, dairy products ranked second only to meat animals, and ahead of feed crops and poultry and eggs. Milk is produced and processed in every State. Each American consumes a little less than 600 pounds of milk in fluid and product form a year.

Given the importance of milk and dairy products, the Government has long been involved in the dairy sector to overcome certain market deficiencies created by the characteristics of milk and milk marketing. These factors are not unique to milk, but in combination, they create unique conditions and problems. These characteristics include:

(1) Extreme perishability of the raw product, with a high potential for transmitting diseases, requiring rapid product movement, refrigeration, and heat treatment;

(2) Very limited response in consumption to price changes;

(3) Bulkiness due to its high water content (87 percent);

(4) Production through a continuous biological process, creating (among other effects) a need for skilled workers every day;

(5) Unsynchronized seasonality of production and demand;

(6) Biological lags in milk output (about 36 months from the time a cow is bred until the heifer enters the milking herd); and

(7) Joint assembly and hauling of milk for most dairy farmers.

The dairy sector has been undergoing significant changes. The number of farms with milk cows declined from 2.8 million in 1955 to about 200,000 in 1990. According to information from the Economic Research Service of the U.S. Department of Agriculture (USDA), the number of milk cows declined from 21 million in 1955 to about 10.1 million in 1990. At the same time, milk production rose from 123 million pounds to 148 million pounds, implying that

milk production per cow rose from less than 6,000 pounds in 1955 to approximately 15,000 pounds in 1990. Further, while the number of farms declined, their average size increased.

TABLE 1.—MILK PRODUCTION, NUMBER OF MILK COWS, AND MILK PER COW

	Production (million pounds)	Milk cows	Milk per cow (thousand pounds)
Year:			
1955	122,945	21,044	5,842
1965	124,180	15,380	8,305
1975	115,398	11,220	10,360
1985	143,012	10,777	13,024
1990 [1]	148,284	10,149	14,642

[1] Preliminary

Per capita commercial use of all dairy products, after falling during the 1970's, generally rose during the 1980's. Over the whole 1970–1988 period, per capita consumption rose slightly. This masks changes in consumption trends by product. For example, a decline in whole fluid milk consumption was partially offset by gains in lowfat milk as consumers switched to lower fat products. Per capita consumption of American cheese grew about one fourth of a pound annually during the period of 1970–1988, while consumption of other varieties rose about half a pound per year. Most of the growth in sales of other cheese varieties came from mozzarella, used in making pizza.

TABLE 2.—PER CAPITA CONSUMPTION OF MILK AND MILK PRODUCTS [1]

Product	1970	1975	1980	1985	1988
Whole milk [2]	219.1	181.3	146.4	122.9	106.1
Lowfat milk [3]	50.8	74.8	93.6	110.0	122.5
Cream prod. [4]	5.2	5.3	5.6	7.2	7.6
Total fluid items [2]	275.1	261.4	245.5	240.1	236.2
Butte	5.4	4.7	4.5	4.9	4.5
Nonfat dry milk [5]	5.3	3.3	3	2.3	2.6
American cheese	7	8.2	9.6	12.1	11.4
Other cheese [6]	4.4	6.1	7.9	10.3	12.1
All dairy products [7]	563.9	539.4	543.4	592.7	582.2

[1] Data represent domestic disappearance divided by total population including military overseas, except for fluid milk and cream that are based on resident population. All items are on a product-weight basis except for "all dairy products" which is on a milk-equivalent, milkfat basis.
[2] Commercial sales and onfarm consumption.
[3] Includes lowfat and skim milk, buttermilk, and yogurt.
[4] Includes heavy cream, light cream, half and half, sour cream and dip, and eggnog.
[5] Excludes that used in other dairy products.
[6] Excludes cottage cheese.
[7] Includes all dairy products (including some manufactured products not shown separately) on a milk-equivalent, milkfat basis.

The dairy processing industry has undergone marked change in recent decades as well, with substantial gains in efficiency and reduction in costs. Such changes include: fewer but larger plants; increased importance of producer cooperatives; and regional shifts precipitated by population shifts and shifts in milk production in excess of fluid sales. For example, the number of plants producing cottage cheese and butter dropped over 90 percent from 1950 through 1988. Hard cheese and ice cream plants declined by ap-

proximately 75 percent and nonfat dry milk plants by over 80 percent. Automation and technological advances, such as continuous churns, have increased economies of size in processing. However, changes in assembly and distribution costs were probably of equal importance.

Government Involvement in the Dairy Sector

Current Government dairy programs began in the 1930's and 1940's. U.S. dairy policy "has from the beginning included objectives for market stability, consumer interest, and balancing supply and demand." [1] The major purpose of the Agricultural Marketing Agreement Act of 1937 (authorizing the Federal milk market order program) was ". . . to establish and maintain . . . orderly marketing conditions . . . as will provide in the interests of producers and consumers, an orderly flow of the supply thereof to market . . . and avoid unreasonable fluctuations in supplies and prices." (7 U.S.C. xxxx)

The Commodity Credit Corporation (CCC) helps stabilize the milk price received by farmers by purchasing surplus milk products (butter, nonfat dry milk, and American cheese) in surplus periods and reselling them when demand strengthens, or donating them outside market channels. This helps place a floor on how low milk prices can fall, and a cap on how high they rise. However, depending on overall supply and demand factors, prices can fluctuate beyond the support and resale prices. At times the CCC has held a significant share of milk marketings.

Recent Legislation

Over the last 10 years, the Congress has acted on dairy legislation on several occasions. The Agricultural and Food Act of 1981 used a set of triggers relating the minimum support level to the size of CCC purchases. However, as surpluses continued, the Omnibus Budget Reconciliation Act of 1982 froze support prices for 2 years and authorized a 50-cent deduction on all milk marketed. An additional 50-cent deduction was refundable to producers who reduced marketings by a specified amount. This refundable deduction, and the subsequent 1984-85 milk diversion program, were the first attempts to add voluntary supply management provisions to the dairy price support program. For over 30 years, the program supported dairy prices only by removing surplus dairy products from the commercial market.

The Dairy and Tobacco Adjustment Act of 1983 authorized the milk diversion program of 1984-85. Under this law, milk producers could voluntarily enter into contracts with the CCC to reduce their milk marketings by 5-30 percent from their base period marketings (1982, or the average of 1981-82). Participating producers received $10 per hundredweight for each reduction in marketings which was funded primarily through a 50-cent assessment on all milk marketed.

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[1] Novakovic, Andrew. "Perspectives on Federal Dairy Policy: Problems, Goals, and Tools," part of a series entitled "Dairy Policy Issues and Options for the 1990 Farm Bill." Cornell Program on Dairy Markets and Policy. not dated.

The 1983 act also lowered the support price to $12.60 per hundredweight beginning in December 1983. Afterward, the support price was also reduced by 50 cents per hundredweight, on both April and July 1985, because CCC purchases were projected to exceed trigger levels. The act also authorized a 15-cent assessment to finance a dairy product research and promotion program.

The Food Security Act of 1985 continued the $11.60 per hundredweight support price, but with gradual reductions to $10.10 in 1990. Further reductions were dependent on the size of CCC removals. The 1985 act also authorized the voluntary dairy termination program, also known as the whole-herd buyout, in which producers could submit competitive bids to remove milk production for at least 5 years.

The current support price of $10.10 per hundredweight was established in January 1990, down 50 cents from the 1989 level of $10.60. The Food, Agriculture, Conservation, and Trade Act of 1990 continues this level, with adjustments made depending on the size of CCC removals. The Omnibus Budget Reconciliation Act of 1990 included further amendments to the dairy price support program which were required under the budget process to bring about reductions in program costs.

TABLE 3.—NET REMOVALS OF SURPLUS DAIRY PRODUCTS BY THE CCC

	Net removals (million pounds milkfat basis)	As percentage of marketings
Year:		
1965	8,010	6.8
1966	672	0.6
1967	7,597	6.7
1968	5,178	4.6
1969	4,441	4.0
1970	5,924	5.2
1971	7,307	6.4
1972	5,451	4.7
1973	2,168	1.9
1974	1,329	1.2
1975	2,104	1.9
1976	1,243	1.1
1977	6,307	5.3
1978	2,870	2.4
1979	2,207	1.8
1980	8,970	7.1
1981	13,046	10.0
1982	14,467	10.9
1983	16,929	12.3
1984	8,691	6.6
1985	13,298	9.5
1986	10,774	7.7
1987	6,811	4.8
1988	9,070	6.3
1989	9,358	6.6
1990 [1]	8,951	6.1

[1] Preliminary.

Current Conditions Facing the Industry

With declining support levels, milk prices received by producers have fluctuated greatly since 1987. This has been caused by varying domestic supply and demand as well as increased nonfat dry milk demand overseas. For example, the January milk price received by farmers rose from $12.50 per hundredweight in 1988 to $13.50 in 1989 and $15.50 in 1990. However, by December 1990, the price had plummeted to $11.70, a drop of about 25 percent. Prices fell further to $11.30 in April 1991, before starting to recover. USDA expects 1991 average milk prices to fall 13–15 percent below last year's prices, or to about $11.67–$11.95. This would be the lowest level since 1978. Further, there are concerns that even should prices rise substantially during the latter half of 1991, they may collapse again during next spring when supplies usually peak.

These low prices have caused severe financial hardship for dairy farmers. USDA estimated that the cost of milk production in 1989 was $13.62 per hundredweight. Even if that were high due to that year's drought and the subsequently higher feed costs, it is very likely that 1991 milk prices are below the costs of production. Further, in 1989, USDA also found that almost 45 percent of the Nation's dairy producers had incomes that could not cover all farm, family, and debt repayment expenses. Now, with prices much lower than in 1989, it is likely that the dairy sector is in worse straits.

Low farm prices and high price variability should concern even those who are not milk producers. Low farm prices have caused serious financial problems for dairy producers affect other sectors and consumer prices. Cattle producers can be affected to the extent lower milk prices lead to increased culling from the national dairy herd. In fact, the decrease in the dairy herd from January to June 1991, was more than twice the level of the same period in 1990.

Processors and retailers face purchase and selling price uncertainty and losses on stored products. For example, after rising in 1989, wholesale cheese prices declined from about $1.51 per pound to $1.12 in only four months in late 1990, a loss of 26 percent. This was especially hard on those who stored product over the period.

Consumers pay a price for this uncertainty to the extent wholesalers and retailers add a risk premium to the price they charge for dairy products. An August 1991 GAO report ("Federal Dairy Programs Information on Farm and Retail Milk Prices") found that:

> Milk prices at the farm level declined steadily nationwide from August 1990 through April 1991. However, national retail prices for milk, cheese, and processed dairy products actually increased from August through October 1990 before slightly decreasing through May 1991.

USDA reported in the July 1991 "Dairy Situation and Outlook Report" that the April–June 1991 farm-to-retail price spread was about 10 percent higher than a year ago, and up more than 20 percent from 2 years earlier. The spread continued to grow more rapidly than at any time since 1980.

MAJOR PROVISIONS OF THE BILL

The purpose of this bill is to provide a long-term solution to the chronic supply and demand imbalance in the dairy sector by increasing, improving, and stabilizing farm income and stabilizing the production of milk in the United States. These objectives will be met through a surplus reduction program in which surpluses will be reduced by producers themselves, rather than be acquired by the CCC, and through an increase in the support rate for milk to $11.10 per hundredweight. The surplus reduction program and price support increase will not result in any no cost to the taxpayer.

Price Support

The level of milk price support has been lowered by Congress almost 29 percent since 1981, when the support was $13.10 per hundredweight. In 1990, the support rate was lowered to $10.10 per hundredweight, and has remained at this level in 1991. Since 1987, when the support price was lowered first to $11.35 per hundredweight and then $11.10 per hundredweight, and finally to the current $10.10 level, the variability in dairy prices has almost doubled. The committee believes that this support rate is too low to help stabilize production and prices, and for this reason has increased the support price to $11.10 per hundredweight for calendar years 1992 through 1995.

In conjunction with this support rate increase, the Secretary is directed to operate a voluntary surplus reduction program to keep Commodity Credit Corporation (CCC) net removals of milk at 4.5 billion pounds on a milk equivalent, total milk solids basis. If CCC net removals exceed 5 billion pounds, then the support price is increased further to $12.10 per hundredweight. The purpose of this increase is to ensure that the Department, not the dairy farmer, will be penalized if the Department mismanages the program.

The bill establishes a ceiling on the purchase price of butter at $0.9425 per pound, and a floor on the purchase price of nonfat dry milk at $0.995 per pound. This change sends a signal to the manufacturers of milk products and to dairy farmers that the fat in milk is of less value and encourages dairy farmers to lower the level of fat in milk produced on their farms.

Recourse Loans

To further help stabilize the sector, recourse loans may be offered by the Secretary to processors for butter, cheese, and nonfat dry milk beginning in January 1993. Before offering these loans, the Secretary is directed to determine, in consultation with the Congress and members of the dairy industry, whether or not these loans can improve the performance of the dairy sector. The loans would be at a rate that will enable plants of average efficiency to pay producers an average price that is between 95 and 100 percent of the 5 year moving average price received by producers for milk, excluding the high and low years. Loans would be offered in the first part of a year with repayment later in the same fiscal year. Prices are usually lower in the first half when production peaks, and then strengthened in the latter half as production falls and

demand grows. This provision could help stabilize supplies and prices at minimum, if any, cost to the CCC.

Surplus Reduction and Prevention Programs

The committee believes that a surplus reduction program is necessary to control the chronic tendency of the dairy industry to produce more milk than is needed by the market. By preventing the production of surplus milk, a supply control program can help prevent disastrous falls in the price of milk while also helping to control the government's costs. All other major agricultural commodities have supply control provisions to protect farmer income and limit program costs.

The committee believes that there is merit to requiring the dairy industry to play a more active financial role in the controlling of the industry's surpluses. For this reason and because of the current budget crisis facing the Federal government, producers are required to pay for the costs of the surplus reduction program in the form of assessments on producers who are increasing their production relative to historical levels.

Two types of contracts are offered in this program. The first is a surplus reduction contract, whereby producers agree to reduce their marketings of milk. The second is a surplus prevention contract which requires that producers not increase their marketings of milk relative to historical levels. The bill authorizes surplus reduction and prevention programs for each of calendar years 1992 through 1995. The new program is similar to the 1984–85 milk diversion program.

Each year, the Secretary is required to determine the national reduction in milk marketings necessary in the following calendar year to limit CCC net removals (purchases less sales) to not more than 4.5 billion pounds (milk equivalent, total milk solids basis). Seven regions among the 48 contiguous States are created, and the Secretary must ensure to the extent practicable that participation in the surplus reduction program is proportionately distributed, based on each region's share of national milk production. This is to prevent a large share of the decrease in production from occurring in one region or a few regions. The amount of reduction in milk marketings in each region is to be calculated as the product of the national reduction in milk marketings and the share of national milk production that is produced in the region.

Program Operations

The Secretary would enter into contracts with producers who wish to participate in either the surplus reduction or prevention programs. Under the reduction program, the Secretary would provide cash payments to producers for the amount of milk marketings they agree to reduce. The cash payments may be based on either a level determined by the Secretary or on bids from producers. In either case, the level would be that necessary to achieve national and regional marketing reductions. Funds for such payments would be collected from assessments on producers who choose not to participate in either the reduction or prevention program.

The committee believes that the 15-month 1984–85 diversion program failed to have long-term effects because producers maintained

productive capacity during the period of the program which they then unleashed after the program ended. It is for this reason that this program is to be in effect every year necessary to achieve the desired reduction is surpluses. In order to help ensure that long-term reduction in marketings will be achieved, contract lengths are authorized to be between 24 and 36 months, though shorter periods of up to 12 months are permissible. The Secretary will determine the length of contract required under the program.

Producers will contract for reductions of between 5 and 30 percent in their milk marketings relative to their relevant milk marketing history, similar to the 1984–85 diversion program. The Secretary will determine the percent reductions within this range required under these contracts.

The calculation of a producer's marketing history is designed to avoid problems encountered with the 1984–85 diversion program and also to avoid base building. The marketing history used in the 1984–85 program, which began in March 1984, was the quantity of milk marketed in 1982 or, at the option of the producer, the quantity in 1981 and 1982. Some producers had already made substantial changes in their production in the period between 1981 and 1982 and when the program began in 1984. In these cases, producers were paid for reductions that had already occurred, therefore increasing the costs of the program. In other cases, producers had increased production so much that participation was unattractive.

The bill establishes the marketing history for 1992 participants as their 1991 milk marketings; in 1993, as the average of 1991 and 1992; in 1994 and 1995, as the average of the previous three years. A producer's marketing history is not reduced if they participate in a surplus reduction contract. The marketing history for any year they are in the program is the amount they actually market in that year plus the amount of milk they have contracted not to produce under the program in that year.

Under the surplus prevention program, participants would contract for 1 year not to increase their marketings from the previous year. Again, those producers who participated in the surplus reduction program in the previous year will not be penalized—the marketing history for that previous year will be the amount they actually marketed in that year plus the amount of milk they contracted not to produce under the surplus reduction program. Participants in prevention contracts would not be subject to the reduction in price received by producers who choose not to participate in the surplus reduction program.

The Secretary may modify contracts and allow more milk marketings if he determines that CCC net removals would fall excessively below 4.5 billion pounds.

To minimize any negative effects on the livestock sector, the Secretary must stagger when the surplus reduction contracts begin, as well as their length. The randomness generated by such staggering should mitigate any effects on beef, pork, and poultry producers. To further reduce the effects of the surplus reduction program on livestock, the committee directs the Secretary to enter into contracts in three sign-up periods in 1992, and in subsequent years to hold whatever number of sign-ups necessary to meet the goals of the program.

For those producers who voluntarily choose not to participate in either the surplus reduction or prevention programs, the Secretary will provide for a reduction in the price they receive on all commercially marketed milk. The Secretary will determine the level at a rate necessary to fund payments to producers participating in the surplus reduction program. If such funds are inadequate, then CCC funds must be used. The reductions in price will be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act reenacted with amendments by the Agricultural Marketing Agreement Act of 1937. This allows the Secretary to consider such remittances in determining minimum support prices.

Standards of Identity

The nutritional content of beverage milk varies seasonally and regionally. For example, milk consumed in California has higher levels of "solids, not fat" than does milk under Federal orders. The committee wishes to achieve both seasonal and national uniformity and increase the nutritional content of beverage milk. The Food and Drug Administration already has standards for beverage milk in terms of milkfat and a minimum solids-not-fat level. The bill would require higher minimum milk solids-not-fat standards starting in 1994, similar to those that have been used in California.

Mandated Export Sales

In an effort to reduce existing surpluses, provide short run strength to dairy prices, and assist in the relief efforts that are being directed to the Soviet Union, the bill requires in calendar year 1991 that the Secretary sell a minimum of 250 million pounds of CCC dairy products to the Soviet Union and its former republics. Of the total, at least 175 million pounds must be nonfat dry milk and 75 million pounds must be butter.

Committee Consideration

MAY 22, 1991, HEARING

On Wednesday, May 22, 1991, the Committee on Agriculture, Nutrition, and Forestry met to hear testimony on Senator Jeffords' cow culling proposal (S. 1098).

The first witness was the Honorable James Jeffords, U.S. Senator from Vermont. Senator Jeffords explained that he had introduced S. 1098 for two different reasons: first, to give temporary relief to dairy farmers so that Congress would have more time to enact a long-term supply management program; second, to develop the infrastructure needed to export live dairy cows and reduce herd size without high cost to the producers or to the Government.

Senator Jeffords went on to describe the history that had led to the problem of dairy overproduction. He explained that legislation in the 1981 farm bill had sent mixed signals, and in 1983 created huge dairy surpluses. A diversion program was then developed to reduce the milk surplus. It was somewhat successful, but did not solve the problem of too many dairy cows.

In 1985, when the surplus of cows was recognized, both a dairy termination program and a beef promotion program were devel-

oped. On March 28, 1986, when the termination program was announced, there was an immediate reaction in beef markets as beef prices fell. This was largely due to USDA failing to announce that the beef coming from the termination program was to be purchased by the Government and that beef prices should not be affected. Once the beef program was made known, prices rebounded to where they were upon the introduction of the termination program.

When the termination program was over, the General Accounting Office made an evaluation and deemed it a success. It had helped reduce excess production quickly and had increased milk prices. But, because the program was no longer in place, by the late 1980's the number of cows had started to increase again.

Senator Jeffords described the current dairy problem as one quarter the problem it had been in 1985. He concluded that Congress was in a position to bring overproduction problems under control through modest exports or slaughter, during a time of the highest beef prices in history.

Senator Jeffords then raised three final points: first, that S. 1098 would set up authority for USDA to provide compensation to beef producers who had suffered losses during the initial week of the dairy termination program in 1986; second, that the export program would be basically for future use, the problem being the lack of infrastructure to export livestock in the proportions necessary, and that slaughter would therefore be the primary means of reducing herd size; and third, that the bill would apply savings to refugee programs in order to assist and reduce the costs being spent trying to help the Kurds and others, and it would also allow for donations to nutrition and feeding programs.

The next witness was Dr. Bruce Gardner, Assistant Secretary for Economics of the U.S. Department of Agriculture.

Dr. Gardner cited two main problems with the purchase proposal: The first was, the feasibility of achieving a 5 billion pound production cutback within the framework of the bill's provisions. Not only would farmers be selling USDA the cows that they would be naturally culling anyway, but the payment rate appeared to be too low to attract enough production to reduce milk output by the 5 billion pounds required; the second was, the feasibility of the steps proposed in the bill assuring that the beef industry would not be harmed by the dairy herd reduction. Dr. Gardner saw an effect on the price of beef and beef producers as almost certain. He stated that the only way for there not to be any effect was to increase demand, and the only way to assure that was to have the Government buy the meat and then dispose of it in such a way that it did not replace the ordinary commercial demand for meat. Dr. Gardner felt that this would be impossible to do without disturbing the world market.

Dr. Gardner then went on to describe other problems with S. 1098, such as the proposed emphasis on those regions with surplus milk production. He also disagreed with the proposal to compensate those beef producers who had lost income during the period between March 31 and April 11, 1986.

Dr. Gardner concluded that the administration could not support Senator Jeffords' bill S. 1098.

The Committee then heard testimony from a panel including: Mr. Robert Drake, Chairman of the Agricultural Policy Committee of the National Cattlemen's Association; Mr. James Barr, National Milk Producers Federation, Arlington, Virginia; Mr. James Putnam, Springfield Credit Bank, Springfield, Massachusetts; Mr. Jim Copper, the National Holstein Association, Brattleboro, Vermont; and Mr. Brian Stone, dairy farmer from East Montpelier, Vermont.

Mr. Drake, as a representative of National Cattleman's Association, was strongly opposed to any kind of Government induced herd buy-out or cattle slaughter. He also disagreed with compensating those cattlemen who lost money during the 1986 buyout. This was primarily because of the difficulty in documenting the occurrence, as well as the discomfort in reopening old wounds.

Mr. Drake concluded that cattle should come to market only by way of the free market system, where the dairymen would ship the cattle themselves, without any kind of Government intervention.

The next speaker on the panel was Mr. Jim Barr, chief executive officer of the National Milk Producers Federation. Mr. Barr introduced USDA's latest annual report on financial characteristics of dairy farms. The report stated that 43.6 percent of all dairy farms received insufficient income to cover their farm and family expenses and debt repayment. Mr. Barr then disclosed that those results were from 1989, when dairy farmers were receiving $13.55 per hundredweight, close to $2 more per hundredweight than dairy farmers were to receive this year.

Mr. Barr thanked Senator Jeffords for introducing S. 1098 and trying to provide short-term relief for an industry that is very much under stress. Mr. Barr explained that although National Milk Producers Federation would prefer a long-term answer to overproduction, S. 1098 was a temporary solution. Mr. Barr stated that it was the type of program that could remain in effect on a standby basis in order to accommodate short-term problems in the dairy industry. He cited the introduction of bovine somatatrophine as a potential example.

The next member of the panel was Mr. James Putnam, vice president and director of business research, Farm Credit Banks, Springfield, Massachusetts. Mr. Putnam described his responsibilities at Farm Credit Banks to include analyzing data from approximately 600 dairy farms throughout the Northeast.

Mr. Putnam cited five points from information he had been able to gather: first, the downturn in milk prices was unprecedented in terms of timing and severity in recent history; second, this downturn had led to a sharp turnaround in the financial situation faced by most Northeast dairy farmers; third, the projections indicated that over 70 percent of all Northeast dairy farmers would operate at a cash flow deficit in 1991; fourth, the monthly cash-flow data from a sample of Northeast Agrifax dairy farms confirmed a major contraction in cash-flow had already occurred in the first quarter of this year, with no major turnaround in sight; finally, the current downturn in milk prices was impacting all regions of the United States, not just the Northeast.

The next witness was Mr. Jim Copper, executive director of Holstein-Friesian Services, Incorporated, the international marketing

subsidiary of the United States Holstein Association. The Holstein Association is the largest breed registry organization in the world composed of 54,000 dairy farmers from all 50 States.

Mr. Copper, limiting his comments to the dairy heifer export provisions in S. 1098, disagreed with Senator Jeffords' proposal on the grounds that S. 1098 was meant to be a temporary solution to a long-term problem. Mr. Copper submitted for the record a long-range program involving the export of 35,000 to 40,000 head of dairy heifers on an annual basis, its accumulated reduction in total dairy production being quite significant. Mr. Copper's program, would also require an export incentive payment which would be made to the seller, approximately $600-$800 per head, to stimulate the demand and trade sufficiently enough to achieve suggested export goals.

Mr. Copper saw exporting heifers to be more effective than price support programs. Mr. Copper stated that exportation would not adversely impact the domestic beef markets, but actually stimulate demand for other U.S. products, such as feed grains, equipment, medicines, and pharmaceutical products.

The final witness on the panel was Mr. Brian Stone, a dairy farmer from East Montpelier, Vermont. Mr. Stone said that the answer to the problem of too many dairy cows would be an animal control program.

Mr. Stone stated that out of the many different proposals that had been suggested, the program that appealed to Vermonters involved control over the number of heifer calves raised.

Mr. Stone concluded that a program where supply and demand were brought into balance without tampering with the price support structure or involving exportation and the Federal Government should be seriously considered.

JUNE 19, 1991, HEARING

On June 19, 1991, the Committee on Agriculture, Nutrition, and Forestry met to hear testimony on dairy supply management options.

The first panel consisted of Senators Kasten, Kohl, Jeffords and Wellstone. Senator Kasten testified to the seriousness of the situation in the dairy industry and the need for immediate action.

He estimated that 4,000 dairy farmers in Wisconsin would go out of business this year, many of them farmers who had been in business for generations. Mr. Kasten previewed the testimony of a later witness from Wisconsin, Mr. Bud Gerrits, and noted its importance because it represented a grassroots proposal from the dairy farmers of his State.

Senator Kasten then discussed the importance of increasing the standards for levels of solids not fat in fluid milk, a concept also endorsed by Senators Kohl and Jeffords. He testified that raising these levels will increase the protein, calcium and other nutritional components of milk, which will increase demand. He indicated he was pleased to see wide agreement for this proposal.

In summary, Senator Kasten stressed that in developing new legislation, the Senate must consider the advice and guidance of dairy farmers and increase the minimum solids for fluid milk products.

Senator Kohl testified next and also cited the need to pass legislation before the August recess. He asserted that the USDA's report on supply management programs is a sign of the administration's indifference towards the Nation's dairy farmers and that the administration should be held accountable.

In outlining the elements needed in an effective dairy bill, Senator Kohl began with the need for a higher support price, which he illustrated by pointing out how one of Wisconsin's most efficient producers is losing money at the current price.

He also recommended the implementation of a two-tier supply management program with a trigger below 7 billion pounds, and objected to the idea of exempting certain areas of the country from this type of program.

Senator Jeffords began his testimony by asserting that a disastrous fallout of family dairy farms can be avoided. According to Senator Jeffords, dairy farmers are some of the most efficient food producers. In terms of real dollars, they are producing milk for 25 percent less than a decade ago.

He testified that options for legislators are limited because of current budget constraints. He expressed his support for having a producer board that could take control of the dairy program and implement aggressive programs for exporting dairy products and cattle. He speculated the board structure would be more compatible with the GATT negotiations and should be overseen by the USDA.

Jeffords emphasized the export possibilities for dairy cattle and how reducing cow numbers would help eliminate the surplus of milk. He also called for a program similar to the dairy termination program to allow farmers to leave the industry with dignity. He contended that although the termination program gained a bad reputation, the program was effective in reducing the surplus and raising the price of milk.

Senator Wellstone also testified to the difficult situation for dairy farmers in Minnesota and all over the country. In his opinion, people who support leaving the current dairy program in place have not witnessed the suffering caused by the low prices. This suffering is evidenced by 300 dairy operations that have gone out of business in Minnesota this year.

He said that he has talked to dairy farmers who are unable to pay their expenses with the current price and are waiting for Congress to pass a rational dairy policy. He expressed that Minnesota farmers overwhelmingly favor a two-tier pricing system.

He also related that the farmers in his State are asking for a fair price for milk. A price level of $13.60 per hundredweight, which would cover the cost of production, is a fair price in his opinion.

Senator Wellstone also testified that action must be taken immediately to preserve rural economies. He asserted that the family structure of agriculture is needed in the long run to keep consumer prices stable and criticized the opponents to new dairy legislation who pit dairy farmers against consumer advocates. Describing how farm prices have fallen while retail prices have remained stable, he asserted that there has been very little correlation between farm and retail prices in the past year.

He concluded by urging the Senate to pass legislation that supports the family farm structure of the dairy industry.

The next panel included William Knox, editor and general manager of Hoard's Dairyman magazine; John Malcolm, the Vermont farmer of the year; Don Whorton, State dairy Committee member of the Alabama Farmers Federation; Bud Gerrits, dairy producer from Greenleaf, Wisconsin; Bucky Jones of the Mississippi Department of Agriculture; Robert Giacomini of Western United Dairymen; and Fred Douma representing Dairy Farmers for Responsible Dairy Policy.

Mr. Knox testified from experience that the plight of the family dairy farmer is worse today than it was during the Great Depression.

He also has observed more support for an inventory management program than ever before. He gave examples from producers, milk cooperatives and farm organizations from all regions of the country in support of supply management.

The inelastic demand for milk, Mr. Knox explained, is one of the causes of the current crisis. A 10 percent surplus results in roughly a 40 percent decrease in farm prices, however, a corresponding decrease by an individual farmer cannot correct the problem, according to Ohio State agricultural economist Dr. Jacobson.

Knox likened two-tier pricing to domestic parity legislation that was twice passed by Depression-era Congresses and twice vetoed by President Coolidge. Similar legislation known as the Self-Help program was endorsed by then-Agriculture Secretary Benison in the 1950's, but lacked support from the White House.

Recalling a conversation with Arthur Ward, head of the New Zealand Dairy Board, Knox believes that New Zealand would not criticize America for exporting dairy products at the second-tier price under this type of program.

He concluded by stressing that supply management is not a new concept, and that it could drastically reduce the cost of the dairy price support program.

The next panel member was Mr. Wharton. He was accompanied by several other dairy farmers representing southern dairy organizations.

He explained how his Committee began a national campaign to unite dairy farmers. This campaign elicited response in support for a variety of two-tier supply management programs from all over the country, however he stressed the similarity in these proposals.

He testified that most farmers agree that what is needed is a two-tier program of price supports at $12.60 or $13.10, with the Secretary estimating demand and establishing a monthly and annual share for each producer, with a penalty of $10 per hundredweight for farm production in excess of demand.

He expressed hope that dairy farmers would be given the opportunity to control production and thus control their own destiny.

The next panelist was Mr. Malcolm. He described his operation and expressed his frustration at watching his income drop 30 percent from last year.

After explaining the importance of the dairy industry to Vermont's economy, Malcolm related that in Vermont it takes a great deal of capital investment and physical sacrifice to establish a

farm. He admitted that he could not represent the wide variety of opinions held by farmers in Vermont.

He expressed his opinion that milk is no longer a staple item, but an elective for consumers. He also said that he feels that many consumers must adopt a more realistic view of farmers and that farmers for their part must take more responsibility for marketing their product. He is confident that farmers will find creative and innovative ways to market milk, which he described as the best beverage available.

Mr. Malcolm was followed on the panel by Mr. Gerrits, a dairy producer from Greenleaf, Wisconsin. He expressed his concerns about the effects of milk prices on the rural economies and his assessment that dairy producers are unified in their support of two-tier supply management.

He related that above all, a two-tier proposal should enhance producer incomes. In addition Gerrits said a program should hold Government costs constant, result in a fair market-driven price for consumers and keep the bases free of value so that new producers can enter the industry. In the plan he described, the second tier would be triggered by the Secretary, when cheese prices fell to a certain level. When prices rose, the two-tier pricing would end.

He claimed that this plan would help stop the decline in farm numbers without increasing consumer prices, provided that handlers of the dairy products do not take excessive margins.

In his opening, Mr. Jones related that the violent price swings have hurt the entire dairy industry.

According to Jones, the wide price swings need to be stabilized, and he called for a support price increase to achieve this. He reviewed some of the findings of the National Commission on Dairy Policy and backed many of the Commission's findings. He expressed that Mississippi producers agree that dairy pricing should be market oriented, that the Federal Order System is the best available system, and that the Canadian quota system would not be suited to the U.S. dairy industry.

Robert Giacomini, representing Western United Dairymen, began by describing the grassroots policy development of his organization.

After finding little guidance in the USDA report on supply management, his organization renewed previous policy recommendations, which Giacomini described. Their recommendations are similar to the plan proposed by the National Milk Producers Federation.

Giacomini testified that the Western United Dairymen favor continuing the current dairy purchase program up to 5 billion pounds milk equivalent, and limiting disposal to Government programs when purchases exceed 7 billion pounds.

They favor increasing the support price to $11.60 and electing a producer board to market dairy product purchases over 5 billion pounds. He explained that the board would have the power to conduct inventory management programs that included the establishment of transferable producer bases. Giacomini called for USDA to make midyear projections for production and consumption, and said the plan would give oversight authority to the Secretary of Agriculture.

The plan called for raising the nonfat solids content for fluid milk to the levels currently used in California.

The final panelist was Fred Douma, representing Dairy Farmers for Responsible Dairy Policy. Mr. Douma expressed that his organization's members are concerned about the low producer prices and returns, but that because the signs of recovery have surfaced, they do not support a change in current policy.

He suggested that the recovery in the dairy sector will be quicker if current policy remains in place, because he suspects that dairy farmers are maintaining cow numbers while waiting for a government bailout.

He recalled that political pressure has historically led to setting the support level at an artificially high level. If this occurred during the current situation, this level would stimulate production, requiring production controls to be put in place. He said he believes that even if such a program were intended to be on a standby basis, the quota would take on value and become permanent, and production history would determine who produced the Nation's milk supply.

Douma speculated that these costs would be passed onto the consumer and burden the poor. He concluded that no dairy program can ensure all dairy producers a profit regardless of cost of production, so that lawmakers should stick with the current system, which balances supply and demand.

The next witness was Dr. Bruce Gardner, Assistant Secretary for Economics, U.S. Department of Agriculture. Dr. Gardner's written testimony indicated that the administration recommends no changes in the dairy program after studying various inventory management programs.

In his prepared statement he discussed how the low farm price for milk is rising as producers react to market signals. He said he expects the all milk price to average $12.30 by the end of 1991.

Gardner's statement described the various inventory management programs studied by USDA, a target price program, reclassification (Class IV), two-tier pricing programs, and milk diversion programs.

His testimony highlighted the positive and negative aspects of the programs and how they might be combined. The statement also evaluated how each program's compatibility to the current negotiating stances taken by the United States in the General Agreement on Tariffs and Trade (GATT).

The conclusion of his statement summarizes that the high support options of the programs studied concern him because they would inhibit long-term adjustments in production, processing, and consumption, increase consumer costs, decrease domestic consumption and be incompatible with U.S. trade talks.

His statement also presented the argument that though the low-support options generated a lesser degree of concern, the increased Government intervention would not be justified for the marginal returns generated.

The statement's conclusion contended that the current program measures up well compared to the alternatives studied.

During questioning, Dr. Gardner speculated that the options studied by USDA would cause as many problems over the long

term as they would solve in the short term. He said that the dairy industry is in a better position to overcome the short-term price drop because of the high prices the last few years.

He also indicated that a temporary diversion program did not score badly compared to the other alternatives studied, and that a target price program or deficiency payment plan could be set up in such a way that the administration could support it. When responding to a question on milk prices, he confirmed that the marketing margin for dairy products has been increasing.

The first afternoon panel was composed of James P. (Tom) Camerlo, president of the National Milk Producers Federation; Linwood Tipton, president of the International Dairy Foods Association; and Dana Hauck, vice chairman, Agriculture Policy Committee of the National Cattlemen's Association.

Mr. Camerlo testified that the USDA report recommending a continuation of current dairy policy is wrong. He refuted the USDA's claim that the recent price increase is a sign of recovery by calling it a seasonal increase that will be followed by a seasonal decline.

He predicted that the current system will lead to continued boom and bust cycles and that a program to stabilize milk production and consumption is needed. The plan proposed by National Milk Producer's Federation falls within the budget limitations. He explained that the provisions of the plan would increase the milk price support to $11.60 per hundredweight, limit Government purchases of dairy products, create an industry elected board to market surpluses, balance supply and demand with a two-tier price program, exempt certain areas of the country to maintain market stability, raise the standards of fluid milk, repeal requirements for assessment refunds and increase the manufacturing allowance.

He reminded the Committee that the National Milk Producers program was arrived at after lengthy debate and would benefit farmers and consumers without any additional cost to the Government.

Camerlo was followed by E. Linwood Tipton. He was accompanied by Leonard Southwell, from the Prairie Farms Dairy in Carlinville, Illinois. He stated for the record that the current system is working well and that milk prices are on their way to a substantial recovery.

He also stated that his organization is opposed to production limits because it will provide a windfall to current producers. Market clearing devices such as a Class IV program would be acceptable, according to Tipton.

Mr. Southwell followed Mr. Tipton to speak on the proposal of adding more nonfat solids to fluid milk. He pointed out that the experience with his company has been that adding solids, causes an objectionable flavor in milk. He said that this practice would shorten the shelf life of milk and would be impossible to enforce. He mentioned other drawbacks to this proposal from a nutritional and processing standpoint. He concluded by questioning the idea of changing a successful product such as fluid milk.

The final witness on this panel was Mr. Hauck. He reminded the Committee that the cattlemen are very interested in dairy policy because of the effect dairy cattle can have on the livestock market.

He offered the whole herd buyout as an example of a dairy program that had serious repercussions for many cattle producers.

Hauck cited the USDA report on inventory management which indicated that the two-tier pricing and target price approaches would have the greatest negative impacts on cattle producers.

He indicated that reclassification and diversion programs would have a lesser negative impact initially, but could have unexpected effects further down the road.

He asked that cattle interests be kept in mind as the Committee deliberated dairy policy choices. In summarizing the Cattlemen's position, Hauck said that dairy policy should be market oriented, national in scope, long term, and nonimpacting on the cattle industry. He expressed sympathy for dairy producers, but insisted that relief for dairy farmers must not come at the expense of cattlemen.

The final panel consisted of Dallas Tonsager, president of the South Dakota Farmers Union; Mike Quam, director of the dairy department of the National Farmers Organization; Cindy Lewno, National Family Farm Coalition; Kay Zeosky, national dairy chairman of WIFE, Women Involved in Farm Economics; and Dean Kleckner, president, the American Farm Bureau Federation.

Mr. Tonsager testified that as long standing supporters of supply management, the National Farmers Union is encouraged by the growing support for two-tier pricing program.

He said they favor a support price of $13.60 per hundredweight so that dairy farmers can cover their costs. He criticized the plan developed by the National Milk Producers Federation on several grounds.

He argued that the support price of $11.60 in their plan is too low, and that the plan is overly complex. He expressed concern that the refundable assessments may not cover CCC purchases between 5 and 7 billion pounds. The subsidized heifer exports and payments for reducing production also drew criticism.

Tonsager pointed out additional flaws while analyzing the two-tier portion of the Federation's plan. The trigger level of 7 billion is too high and the method for setting producer bases is unfair, according to Tonsager. He also said the plan's provisions for new producers lack what is needed to attract new producers and sustain family farms.

His final objection to the Federation's plan was on exempting certain areas from a two-tier pricing. He stated that the National Farmers Union favors a mandatory two-tier program to be implemented nationwide.

Mr. Quam was accompanied by Gene Paul, western regional director, dairy department, National Farmers Organization.

After describing his own dairy operation, Mr. Quam stated that the NFO has always supported pricing at the cost of production plus profit. He called for long-term dairy legislation that will enhance the profitability of dairy farming, in the interests of dairy farmers, the whole dairy sector, rural communities and consumers as well.

The NFO's four objectives for dairy policy include: making dairy farming a profitable enterprise, not increasing Government food assistance program costs, providing long-term stability, and being budget neutral.

He described legislation the NFO supports, which would raise the support price to $14.50, and establish a national two-tier pricing program and producer franchises based on 1990 marketings. He explained that the NFO supports allotments with limited transferability that also allow new farmers to enter the industry. The NFO supports a program that could adjust to market demand and raise the solids not fat content of fluid milk.

He said the NFO would not require a farm conservation plan to obtain refunds on dairy assessments.

He concluded by touting the two-tier program as the best inventory management alternative to preserve individually owned family dairy farms.

Mr. Kleckner testified that many of the 4 million American Farm Bureau member families are dairy farmers facing severe financial stress. He reported that the Farm Bureau board had adopted 11 criteria for dairy legislation.

He explained that though the Farm Bureau favors price relief, it does not support a price support increase, and suggested that a target price or diversion program should be considered along with a Class IV program and higher solids standards for fluid milk. A combination of these programs could stimulate demand and open up new markets without causing budget problems or upsetting the balance with other commodities.

He reviewed others' concerns about two-tier pricing and stated that the Farm Bureau is opposed to any mandatory production bases or quotas.

In conclusion, he said the Farm Bureau favored widely supported provisions such as including dairy producers in the Packers and Stockyards Act, increasing exports of dairy products, and decoupling assessment refunds with conservation compliance. He asked the Committee to consider the short- and long-term effects of any legislation and act quickly to raise producer incomes.

Cindy Lewno representing the National Family Farm Coalition and Dakota Rural Action detailed the importance of dairying to South Dakota, and how current prices fall well below the cost of production. She questioned how USDA could report the current legislation measures up well when people are being driven from their farms.

She explained that the NFFC has worked with dairy farmers from all over the country in developing the National Dairy Act, which would establish a two-tier dairy supply management program that would assure adequate net farm income. She urged the Committee to have USDA study inventory management programs as soon as possible and to introduce the National Dairy Act, so farmers would not have to resort to selling their farm assets and homes.

The next witness was Mrs. Zeosky. She described her family's farm operations and commented that they cannot survive at current milk prices.

Mrs. Zeosky next told how the average age of farmers has been rising annually and expressed concern about what will happen when farmers grow too old to work.

Smaller farms, said Mrs. Zeosky, are both economically and ecologically sound.

According to her, the present situation is not a regional problem. She claimed that regional costs are quite similar.

Many dairy farmers have maintained their pride despite the hard times, Mrs. Zeosky said. In her view, dairying is in the worst situation that it has been in the 37 years she has been farming.

Dairy farmers are upset with Secretary Madigan's explanation that he cannot raise the support price at the cost of the WIC program, she said. She contended that farmers cannot maintain their businesses at a loss to feed the poor.

She feels that the M/W price series is "a joke." The entire system is subject to manipulation, she said, and suggested the need for a completely different mechanism for determining prices paid by consumers.

Mrs. Zeosky claimed that the free market system has been tried and has proven ineffective and doubted that small farms could compete with the giants in the dairy business.

In her opinion, the authors of the farm bill did not intend to hurt rural America. She expressed doubts about a two-tier system that has no guaranteed price increase because it could cut the supply of milk as well as lower the price.

A reasonable price could be set, she believes, and as long as that price is reached, the supply could remain at the needed level. When the farmer's price fell below that level, each farmer's market share could be cut, to spur a price increase from the marketplace.

WIFE is concerned that the Class IV plan to dump milk on the world market, which she said will punish those who have done nothing to contribute to the surplus. Mrs. Zeosky suspected that the heifer export program would hurt the competitiveness of the United States in world markets.

She said many dairy farmers feel that deficiency payments are a form of welfare. She explained that farmers count on their farms as retirement and that when they lose their farms, they lose everything. Mrs. Zeosky proposed retirement incentives to farmers over 65.

Mrs. Zeosky expressed her support for Senator Jeffords' dairy termination program because of the number of older farmers who need a respectable way out, she said. She provided various examples of the humiliation some farmers now face.

She pointed out the danger faced by many young family members who are working because farmers cannot afford hired help. She cited National Safety Council statistics which estimate 23,800 children are injured in farm accidents yearly.

She concluded by commenting how little Americans spend for food, but noted that it has come at the expense of children and older Americans. She also called attention to new studies that reveal lower health risks for consumers of dairy products.

TITLE II—DISASTER ASSISTANCE

Purpose, Background and Justification

The purpose of this legislation is to address the enormous losses faced by agricultural producers in 1990 and 1991. In 1990, nearly

half, or 1,399 of the Nation's approximately 3,000 rural counties were designated as disaster counties. In 1991, 1,290 counties were so designated. Crop losses in excess of $5.5 billion have been estimated for 1990 and 1991.

The severity of these losses has created great financial hardship for many producers. However, these losses follow a major disaster in 1988 and a period of economic downturn in the mideighties. Many otherwise successful producers now find themselves on the brink of financial collapse as a result of this trend and the impact of back-to-back natural disasters.

No matter how efficient or foresighted a producer may be, he or she cannot account for the effects of flooding, freezes or drought or worldwide decreases in the prices of agricultural commodities. In 1988, substantial savings were realized by the Federal Government from the dramatic increase in commodity prices due to the shortage caused by that year's drought. In 1991 market prices for wheat, feed grains and soybeans are only marginally higher in spite of international production losses.

These natural disasters have followed no predictable pattern. Many of the same counties that experienced widespread drought in 1988 and 1989 have been subjected to massive flooding in 1990 or 1991. Flooding has delayed or prevented planting of millions of acres which will result in reduced yield and production levels. Many producers have been affected in several of these disasters.

A continuing drought and a widespread freeze in the winter of 1990 and long-standing drought have caused crop losses in California in excess of $1.4 billion for 1990 and 1991. States reporting losses in addition to California include Texas, $2.1 billion for 1990 and 1991; Iowa, $603 million for 1990; Mississippi, $379 million for 1990 and 1991; North Carolina, $250 million for 1990 and 1991; Pennsylvania, $195 million for 1991; Louisiana, $174 million for 1991; Oklahoma, $95 million for 1990; Indiana, $82 million for 1990; and Michigan, $76 million for 1991.

Crop losses are based upon 1990 or 1991 production figures, or both. Losses for 1991 in some cases reflect estimates made in late July.

A county can be declared as an agricultural disaster area if the production of a major crop in that county has suffered no less than a 30 percent shortfall due to natural disaster. Such a loss must be documented to the satisfaction of the Secretary of Agriculture. A long-term annual yield variation is about half of this amount. In order to meet a loss level of this magnitude, many producers must suffer substantially higher losses.

Although a county is determined to be an agricultural disaster county on the basis of production losses, it is important to note that losses can extend beyond production levels to quality deterioration which heavily impacts the price of a commodity. The grading of fruit, for example, depends upon certain characteristics related to quality. Similarly, low test weights for grain products are evidence of diminished quality that can reduce the price of a commodity—even when production are normal.

The cumulative of these disasters has severely hurt farmworkers, businesses related to agriculture, and retail businesses located in affected areas. No sector of the agricultural economy has felt the

hardship worse than farmworkers. Thousands of farmworkers who were settled in agricultural areas, many of whom owned their own homes, have been forced to travel to other parts of the country seeking work that does not exist.

In California alone, more than 12,000 workers were displaced by drought and severe frost. Nationwide, there is evidence that up to 50,000 workers have been directly affected by agricultural disasters. Food banks have been exhausted by the needs of these additional hungry families. The need for assistance to make rent or house payments has soared; some of these workers were already living in substandard housing. The reality of foreclosures and utility cutoffs has been devastating for these families. This legislation addresses, to the extent possible, the needs of permanent and seasonal farmworkers, as well as packinghouse workers.

Similarly, orchardists, foresters and livestock producers may seek relief under this legislation for losses in 1990 or 1991.

Budget limitations do not permit this Committee to address fully the losses of many agricultural producers. Hopefully, many of these producers will obtain some relief from crop insurance or have other resources to protect them. We can only assure producers that we have done everything possible to replace lost income within the severe restraints of our budget process.

Major Provisions

EMERGENCY CROP LOSS ASSISTANCE

This title amends the crop insurance and disaster assistance title of the 1990 farm bill (the Food, Agriculture, Conservation, and Trade Act of 1990). It authorizes a program to provide disaster payments for losses in crop-years 1990 and 1991.

To qualify for payments, a producer must suffer at least a 35 percent loss in production caused by damaging weather or related conditions. The payment rate is set at 65 percent of a determined price, depending on the crop and whether the producer is a farm program participant. Most payments are made on crop shortfalls that are greater than 35 percent.

For farmers that participate in farm programs producing program crops on payment acres, the payment rate is computed as 65 percent of the established price for the commodity. Deficiency payments are reduced on the portion of the crop that receives disaster payments. The payment rate for program crops on nonpayment acres is 65 percent of the basic county loan rate for the commodity. Program crops include wheat, feed grains, upland cotton, extra long staple cotton, and rice.

For farmers who grow program crops but who do not participate in farm programs, the payment rate is computed at 65 percent of the basic county loan rate for the commodity. Payments will be reduced by a factor equivalent to the acreage limitation program percentage for the commodity by program participants.

For peanuts, sugar beets, sugarcane, tobacco, oilseeds, and nonprogram crops, special rules apply. Essentially, the payment rate is equal to 65 percent of a commodity-specific payment level for all losses greater than 35 percent of the crop (or the farm's effective marketing quota for Burley or Flue-cured tobacco). The payment

level for peanuts is the price support level for quota peanuts or the price support level for additional peanuts, as applicable. The payment levels for sugar beets and sugarcane are at a level determined by the Secretary to be fair and reasonable in light of the price support level. The payment level for tobacco is the national average loan rate for the type of tobacco involved, or (if there is none) the market price. The payment levels for oilseeds and nonprogram crops are the simple average price received by producers during the preceding five crops, excluding the years in which the average price was the highest and lowest.

Producers may only receive disaster benefits for 1990 or 1991. They cannot receive payments for both years. Any funds made available for this program in appropriations acts shall be prorated to all eligible producers.

Producers must obtain multiperil crop insurance coverage for 1992 crops prior to receiving disaster payments, forgiveness of advance deficiency payments, or emergency loans. If the insurance required to receive benefits under this bill is canceled by the producer before the end of the 1992 crop, then certain repayments to the Secretary will be required. For purposes of determining eligibility for, and amount of, disaster payments, the Secretary is authorized to permit a producer to substitute the commodity's crop insurance yield for the producer's assigned farm yield. However, such substitution would affect the amount of production that would be eligible for waiver of repayment of the advance deficiency payment.

Other major provisions of the title include:

Total crop and livestock payments cannot exceed $100,000.

Assistance will be available for losses in crop quality caused by damaging weather or related conditions. To qualify, these producers must suffer a loss in production of at least 40 percent. The payment rate will be 10 percent of a determined price and will be payable on the amount of crop harvested that the Secretary determines is reduced in quality.

Certain refunds of advance deficiency payments are waived for affected producers, offsetting the disaster payments the producer would have been eligible for under this bill.

Disaster payments are authorized for orchardists and commercial tree farmers. Maximum payments are set at $25,000. The bill contains provisions to avoid duplicative disaster assistance or other benefits.

Cost-share assistance is made available to owners and operators of damaged aquaculture operations and pastureland.

COMMITTEE CONSIDERATION

HEARING, JULY 23, 1991

On July 23, 1991, the Senate Committee on Agriculture, Nutrition, and Forestry met to hear testimony on Disaster Relief Legislation.

After Committee members' opening statements, the panel heard from Senator Dale Bumpers who described the local and regional nature of disaster legislation. He explained that it is sometimes dif-

ficult for Senators to understand problems outside their own States.

Despite the localized nature of disaster relief, he pointed out that there are 30 cosponsors on S. 1441, a bill which would provide over $1 billion to farmers. It would allow farmers to choose either 1990 or 1991 as the basis for their relief. He praised the effective disaster bill that helped farmers who suffered losses in 1988 and 1989 and said the administration's opposition to the current bill is unfair.

Describing the situation in Arkansas, he observed that some parts of the State have suffered from flooding while other areas are experiencing severe drought.

Senator Bumpers said the declining number of family farmers in America is eroding the Nation's culture and social fabric. He expressed his concern about losing family farmers, who care for their land, and expressed his hope that consumers and Congress don't take them for granted.

The next witness the Committee heard from was Senator Breaux who commented on how Congress has provided aid to many foreign countries this year. He then told of the disaster caused by record rainfalls in Louisiana this year, and questioned why Congress has helped people abroad, but hasn't helped America's farmers. He expressed his support for S. 1441, introduced by Senator Cochran, for himself and other Senators; and outlined the provisions of S. 1251, a disaster bill that he introduced.

He stated that a Federal disaster declaration accomplishes nothing, a sentiment shared by Representative Nagle. Senator Breaux concluded by urging the Committee to use its authority and take action.

Representative David Nagle from Iowa assumed the witness chair next and described the strange weather conditions that have plagued Iowa farmers this year. In the spring, plantings were delayed by heavy rains and following the floods of early June, there has been severe drought.

He discussed Senator Harkin's proposed disaster relief plan and called for the Appropriations Committee to provide funding once legislation is authorized. He applauded Congress' response, but claimed it would not be necessary if the administration had acted within its power and done more.

Representative Nagle reminded the Committee that the purpose of disaster legislation is to help farmers who have been hurt through no fault of their own. He asserted that farmers are suffering as much this year, as they did in 1988 and 1989. In addition to expecting poor harvests, farmers are facing low prices across all commodities. He warned that if relief is not granted quickly, then agriculture could face difficult times similar to the crisis of the mideighties.

The congressional witnesses were followed by a panel representing the administration. The panel started with Mr. James R. Donald, Chairperson of the World Agricultural Outlook Board of the Department of Agriculture. He was accompanied by several other USDA Administrators who submitted statements and were available for questions. These were Mr. La Verne Ausman, Administrator of the Farmers Home Administration; Daniel F. Shaw,

Deputy Administrator for State and County Operations, Agricultural Stabilization and Conservation Service; James E. Cason, Administrator, Federal Crop Insurance Corporation; and Gary A. Margheim, the Acting Deputy Chief for Programs, Soil Conservation Service.

Mr. Donald acknowledged the weather problems across the country as the previous witnesses had testified.

He reviewed the various weather problems after stating that in general, U.S. crops are in good shape in 1991. In spite of the freezes, floods and drought, Donald said that most farmers were able to get crops planted, or plant an alternative crop. He continued that though many crops had a bad start, most have developed rapidly.

He suggested that the August 12 crop report would provide further information about acreage yields and production, but he cautioned that actual yields will not be known until the fall harvest.

The Administrators were followed by a panel starting with Mr. David Bitto, a farmer from Elberta, Alabama; Mr. Peyton Self III, a cotton and soybean producer, National Cotton Council of America; the Honorable Henry Reaves, Chairman, House Committee on Agriculture, Georgia House of Representatives; William K. Quarles, Jr., vice president, Government Affairs, Sunkist Growers Inc., Sherman Oaks, California; and Mr. Howard Lyman of the National Farmers Union. Mr. Gary D. Lamb, President, Iowa Farmers Union, was scheduled to appear, but could not attend.

Mr. Bitto described the wet spring Alabama had in 1991 and how some farmers were affected more than others. For this reason Mr. Bitto recommended that disaster assistance should be given on an individual basis, by farm and by crop.

He discussed how a wide variety of crops have been hurt throughout the year because of weather. He added that many southern growers are suffering for the second straight year and will be forced out of business if no relief is provided.

Before reviewing the terrible situation in his home county, Mr. Bitto commented on the risks inherent to agricultural production. He testified that Federal crop insurance and disaster legislation do not provide farmers the adequate means to manage risk, and he called for more reliable protection for agricultural producers.

The next witness, Mr. Peyton Self, began his testimony by reviewing this year's weather damage to the cotton crop in the Mississippi Delta. He also discussed other weather problems across the South in recent years.

He described four categories for measuring the impact from this year's rains and flooding: prevented plantings; replanting costs; yield reductions; and overall economic impact on rural communities.

Prevented plantings of cotton totaled over 200,000 acres across the Midsouth at a cost of over $80 million. He said replanting expenses added another $18 million.

He estimated that the yield loss would total $140 million, and the overall damage to the Midsouth rural economy would be nearly $700 million for cotton alone.

He also estimated that losses from other Mississippi commodities would total $280 million and that losses from the California cotton crop would approach $150 million due to water shortages there.

Mr. Self commented that while authority for disaster assistance is in the 1990 farm bill, he reminded the Committee that the farm bill legislation did not provide funding. He said the farm bill disaster assistance provisions fall short because they cover only program crops, and would require a waiver of insurance purchase requirements. Crop insurance is not a viable option for southern cotton producers, in his opinion.

He expressed his support for the Cochran-Bumpers bill because it retains the best components of the 1988 and 1989 disaster assistance bills and concluded by describing his personal experience with this year's floods, the worst he has ever seen.

Mr. Self was followed by Mr. Quarles on the panel. He began by calling the hearing a step in the right direction toward relieving the suffering caused by nature and ineffective, underfunded disaster measures.

Citrus growers are still suffering from last December's freeze, the worst disaster to ever hit California agriculture, according to Mr. Quarles. He asserted that the freeze has threatened the vitality of farms, businesses and communities across the State, and that citrus crop losses alone approach $1 billion.

He expressed his disappointment that the disaster provisions of the 1990 Farm Bill were not funded. He commended the House Agriculture Committee for passing disaster assistance legislation that did not exclude western citrus growers. He also applauded the efforts of the Senate to authorize disaster assistance and obtain funding and expressed his hope that assistance would soon reach the U.S. farmer.

The Honorable Henry Reaves testified next to describe the adverse conditions in Georgia. Though Georgia has suffered from drought in recent years, he said the state is now suffering from excess rainfall.

He reviewed the problems caused by the record heat and lack of rainfall in 1990, a year in which the Department of Agriculture declared agriculture disasters in 142 of 159 counties. Total losses were estimated at over $500 million according to Mr. Reaves.

Restating the view of many witnesses. he said the emergency loan authorizations from disaster designations do not go far enough, which explains why Congress passed a disaster program in the 1990 farm bill.

Calling the hearing a first step toward relief, he asked Congress to appropriate the money necessary to carry out a disaster program. He said the money is needed to help the strong and efficient farmers that remain, farmers that have already survived many years of drought. Mr. Lyman later emphasized this point in his testimony.

He suggested there may be some problems with the availability of crop insurance that should be investigated. In concluding his remarks, he cautioned that programs must be administered carefully to avoid instances of abuse.

Mr. Howard Lyman testified last, by asserting that in rural America there is an income disaster as well as a weather disaster.

Many farmers are one disaster away from termination, in Mr. Lyman's view.

He discussed the recent droughts in the Upper Great Plains and the weather problems in Iowa and how these setbacks are compounded by low crop prices. He noted that rural banks are also struggling because of the crisis.

He also pointed out that crop insurance is not worthwhile for people who have suffered through droughts and have had low historical yields. In closing, he told the Committee that rural America is depending on Congress to help during this time of disaster.

MARKUP

The committee met in open session on Wednesday, October 23, 1991 to mark up a substitute amendment for H.R. 2893 entitled the Dairy and Disaster Assistance Act of 1991. After opening remarks by Chairman Leahy in support of the substitute amendment, Senator Lugar, the Ranking Minority member, outlined his opposition to the substitute. He said he would not oppose the bill in Committee but reserved his right to offer amendments on the floor. Chairman Leahy stated that no member would be blocked from offering amendments on the floor.

Chairman Leahy offered a motion to report the bill, subject to amendment. The motion was agreed to by voice vote. Senator Conrad then offered an amendment cosponsored by several members of the committee to limit the impact on livestock producers of culling herds. Several members spoke in favor of the amendment and it was agreed to by voice vote. After discussion between Chairman Leahy and Senator Lugar regarding the filing of Minority Views, the meeting was adjourned.

SECTION-BY-SECTION ANALYSIS

Short title

Section 1 provides that this act may be cited as the Dairy and Disaster Assistance Act of 1991.

TITLE I—DAIRY PRICE SUPPORT AND STABILIZATION PROGRAM

Findings

Section 101 includes several findings of Congress, including recognition of the importance of milk and dairy products to the human diet and that the production of milk and dairy products plays a significant role in the economy of the United States. The findings note the failure of current dairy program policies to prevent the collapse of producer market prices, and that a surplus reduction program is needed to ensure consumers of a reliable and adequate supply of products and stabilize farm income without increasing Federal outlays.

Policy and Purpose

Section 102 states the policy of Congress is to balance milk production and consumption and to stabilize the price of milk at fair and reasonable levels. It is the sense of Congress that pure and

wholesome milk and dairy products should be produced to meet the needs of consumers in the United States.

Price support operations; surplus reduction and prevention program

Section 103 amends section 204 of the Agricultural Act of 1949 (the "1949 Act") to provide for adjustments the price support level of milk and to authorize a surplus reduction and prevention program.

Support rate

Section 103(a) amends section 204(b) of the 1949 Act to provide that the support rate for milk containing 3.67 percent milkfat shall be increased to $11.10 per hundredweight beginning on January 1, 1992, through December 31, 1995. If net removals by the Commodity Credit Corporation (hereinafter the CCC) exceed 5 billion pounds of milk and products of milk (milk equivalent, total milk solids basis) in any year, the support rate in the subsequent year shall be increased to $12.10 per hundredweight.

Purchase prices on butter and nonfat dry milk

Section 103(b) amends section 204(c) of the 1949 Act to require that the Secretary of Agriculture ("Secretary") establish the maximum purchase price by the CCC in 1992 for butter at $0.9425 per pound and minimum purchase price by the CCC in 1992 for nonfat dry milk at $0.995 per pound. In subsequent years, the Secretary shall determine the purchase prices as appropriate. The Secretary may make adjustments twice a year, and shall notify the Agriculture Committees.

Recourse loans for processed milk products

Section 103(c) amends section 204(e) of the 1949 Act so that the Secretary may make available to processors of milk a recourse loan on butter, cheese, and nonfat dry milk. The Secretary shall, in consultation with the Committee on Agriculture in the House of Representatives and the Committee on Agriculture, Nutrition and Forestry in the Senate, prepare an assessment of whether the loan program will improve the orderly marketing of dairy products. If such improvement is found, the Secretary may offer such program beginning on January 1, 1993.

The Secretary may offer product loans at a rate to enable plants of average efficiency to pay producers, on average, a price that is between 95 and 100 percent of the simple average price received by producers for milk containing 3.67 percent milkfat for the immediately preceding 5 years, excluding the highest and lowest priced years. The loans will be made in the first 5 months of each calendar year and mature after 6 months or the end of the fiscal year, whichever is earliest.

Surplus reduction and prevention program

Section 103(d) amends section 204(g) of the 1949 Act to authorize the Secretary to offer surplus reduction and surplus prevention contracts with producers in 1992 through 1995. The goal of the program is to reduce annual commercial marketings of milk so that

annual net removals by the CCC do not exceed 4.5 billion pounds (milk equivalent, total milk solids basis).

Section 204(g)(2) provides that by November 15, 1991 through 1994, the Secretary shall determine the national reduction in milk marketings necessary to limit net removals by the CCC in the following year to 4.5 billion pounds (milk equivalent, total milk solids basis). In making this determination, the Secretary shall use the rate of price support that will be effective in the following year, and assume no new entrants in the surplus reduction and prevention programs.

Section 204(g)(3) provides that participation in the program shall be proportionately distributed among seven regions of the United States, based on the quantity of milk produced. The regions are:

California, Oregon, and Washington.

Arizona, Arkansas, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Texas, Utah, and Wyoming.

Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

Wisconsin.

Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

Delaware, Indiana, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, and West Virginia.

Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

By November 15, 1991 through 1994, the Secretary shall determine a regional marketing percentage for each region that is equal to the ratio of the total quantity of milk marketed in the region in the prior marketing year to the total quantity of milk marketed in the United States in the prior marketing year.

To the extent practicable, the total reduction in the quantity of milk marketed for a region under the surplus reduction and prevention program shall equal the national reduction in milk marketings multiplied by the regional marketing percentage for that region. The Secretary shall consider the regional supply and demand for fluid milk in determining the regional allocation.

Surplus reduction contracts

Section 204(g)(4) of the 1949 Act requires the Secretary to provide payments from the CCC to producers who reduce their commercial milk marketings under surplus reduction contracts.

The Secretary may offer payments to, or accept bids from, producers at levels necessary to achieve the national and regional reductions in milk marketings. Contracts shall be between 24 and 36 months, although the Secretary may provide for a shorter term to permit the dairy industry to adjust to unforeseen changes in factors affecting milk production, prices, and milk demand. However, in no case can contracts be for less than 12 months.

The level of reduction in the quantity of milk marketed shall equal between 5 and 30 percent of the producer's relevant milk marketing history for that contract year. A producer's milk marketing history shall be determined based on the year in which the producer enters into the contract, as follows: The milk marketing history of a producer entering a contract for reduction beginning in

1992 is the quantity of milk marketed by a producer during 1991. The milk marketing history of a producer entering a contract for reduction beginning in 1993 is the average quantity of milk marketed and considered marketed in 1991 and 1992. The milk marketing history of a producer entering a contract for reduction beginning in 1994 or 1995 is the average quantity of milk marketed and considered marketed by the producer during the previous 3 years.

The Secretary shall offer surplus reduction contracts at least three times during 1992, and on as many occasions during the years 1993 through 1995 as the Secretary determines necessary. The initial enrollment period for surplus reduction contracts shall be for at least 30 days.

Payments under surplus reduction contracts shall be made on a quarterly basis, or more frequently. The Secretary will make a settlement payment at the end of each year of the contract period, based on the total reduction in milk marketings during the year. Payments shall be made from funds generated by the reductions in price received by non-participating producers under subsection 204(h). To the maximum extent practicable and consistent with the other obligations and objectives of the section, the program shall be administered in a manner that will reduce seasonal fluctuations in milk supplies.

Surplus prevention contracts

Subsection 204(g)(5) of the 1949 Act requires that the Secretary provide for surplus prevention contracts. Producers that participate in the surplus prevention program shall not be subject to the reduction in price received under subsection 204(h) during the term of the contract.

To participate in the surplus prevention program, producers shall not increase their marketings of milk from the level marketed and considered marketed in the immediately preceding year. Producers shall have at least 30 days prior to the beginning of the program to enroll in the program, and contracts shall be for a period of 12 months.

Considered marketed

Section 204(g)(6) of the 1949 Act provides that a producer shall receive an allowance for the quantity of milk considered marketed by a producer while participating in a surplus reduction contract. The quantity of milk considered marketed shall equal the quantity of milk by which the producer contracts to reduce marketings.

Records

Section 204(g)(7) of the 1949 Act provides that any producer of milk who seeks to enter into a surplus reduction contract shall provide the Secretary with evidence of the quantity of milk marketed by the producer in previous years. Each producer who enters into a contract shall keep such records and make such reports as the Secretary determines necessary.

Modification of contracts

Section 204(g)(8) of the 1949 Act authorizes the Secretary to offer to modify surplus reduction and prevention contracts. The Secre-

tary shall first determine that, in the absence of the modification, net removals by the CCC would fall excessively below 4.5 billion pounds (milk equivalent, total milk solid basis) during the year.

Assignment

Sections 204(g) (9) and (10) of the 1949 Act provide that a producer may, with the approval of the Secretary, assign a contract entered if the producer's interest in the entire milk production facility and herd have been transferred as a unit to the person to whom the assignment is to be made. All rights and liabilities of the producer must be assigned in writing, and the Secretary is provided with a copy before the transfer. The estate of a producer may perform or assign that producer's contract.

Compliance

Section 204(g)(11) of the 1949 Act authorizes the Secretary to ensure compliance with surplus reduction and prevention contracts at least on a quarterly basis. This requires that the Secretary ensure compliance with the contracts on a schedule consistent with payments to participants in the surplus reduction program.

During the initial enrollment period for the surplus reduction program, the Secretary shall, at the option of the participant, not require full compliance with the terms and conditions of the surplus reduction contract until 45 days after entering into the contract. Full compliance with the terms and conditions of the contract shall be required on a quarterly basis.

A producer may violate a surplus reduction contract through failure to reduce marketings, retaining or acquiring an interest in dairy cattle or facilities contrary to the contract, or making a false statement under the program. If such a violation occurs, the Secretary shall require that all payments made under the contract shall be refunded by the producer, with interest. A participant may also be liable to the Secretary for marketing penalties, equal to the higher of $5,000 or an amount equal to the quantity of milk involved in the violation multiplied by the current support price. The Secretary may waive the marketing penalty if the producer's failure to reduce marketings does not exceed 5 percent of the contracted reduction in marketings.

If a producer violates a surplus prevention contract, the Secretary shall require that the producer pay an amount equal to the rate of reduction provided under section 204(h)(2) multiplied by the quantity of milk marketed by the producer in the year. In addition, marketing penalties similar to the surplus reduction program may be assessed. The Secretary may reduce such penalty by an equitable amount where the producer's violation was unintentional or without knowledge.

Effect on the livestock industry

Section 204(g)(12) of the 1949 Act provides that the Secretary vary the beginning and ending dates of surplus reduction contracts in a region so that the slaughter of dairy animals as a result of the surplus reduction program will occur on a random basis. This is to minimize the adverse effect of the surplus reduction program on beef, pork, and poultry producers in the United States.

Use of government resources

Section 204(g)(13) of the 1949 Act authorizes that the Secretary use the services of State and County Committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and enter into agreements to use, on a reimbursable basis, the services of administrators of the Federal milk marketing orders, and State milk marketing programs.

Reduction in Price Received

Section 103(e) amends section 204(h) of the 1949 Act to provide for two separate reductions in the price received by producers that do not participate in the surplus reduction and prevention program. This reduction in price shall apply to all milk marketed commercially in the United States, and be determined on a calendar year basis.

The first reduction in price shall be used to reimburse the CCC for payments under the surplus reduction program. The rate of the reduction shall be at a level that is necessary to fund all payments to those in the surplus reduction program. In 1992, this rate shall not exceed $0.56 per hundredweight of milk marketed. In 1993, the rate shall be adequate to fund the surplus reduction program in 1993 and cover any shortfalls from 1992. In the years 1994 through 1998, the rate shall be adequate to reimburse the CCC for payments under the surplus reduction program in those years.

The second reduction in price replaces the reduction in price added as part of the Omnibus Budget Reconciliation Act of 1990. In 1991, the rate shall be maintained at 5 cents per hundredweight, and producers may receive a refund if they do not increase marketings from their 1990 levels. In 1992, the rate shall only be at the level to reimburse the CCC for refunds based on the 1991 marketings. The funds collected in years 1993 through 1995 shall be based on a per hundredweight basis and total funds collected in those years shall equal $7 million in 1993, $40 million in 1994, and $80 million in 1995.

The funds from the reduction in price shall be collected and remitted to the CCC as prescribed by the Secretary. The funds remitted to the Corporation under this paragraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act.

Definitions

Section 103(f) amends section 204(f) of the 1949 Act to define the term milk equivalent, total milk solids basis is defined, as in current law, for milk and the products of milk as being equal to the weighted-average of the milk equivalent of such products as computed on a milkfat basis and on a milk solids nonfat basis. Net removals is defined as the level of purchases of milk and the products of milk by the CCC, less sales under section 407 of the 1949 Act for unrestricted use. The United States is limited to the 48 contiguous States in the continental United States.

Standards of identity for milk

Section 104 amends section 8c(5) of the Agricultural Adjustment Act to require that, beginning on January 1, 1994, milk marketing orders under the Act and state milk marketing orders shall include standards of identity to require minimum milk solids not fat and milk solids requirements for all milk marketed in final package form for beverage use in the United States. Under these standards, whole milk shall contain not less than 12 percent total milk solids with not less than 8.7 percent milk solids not fat and 3.25 percent milk fat. Low fat milk shall contain not less than 12 percent total milk solids with not less than 10 percent milk solids not fat and 2 percent milk fat. Light milk shall contain not less than 12 percent total milk solids with not less than 11 percent milk solids not fat and 1 percent milk fat. Skim milk shall contain not less than 9 percent total milk solids with not less than 9 percent milk solids not fat and not more than 0.25 percent milk fat. The Federal Milk Market Order Administrators shall test for compliance with these standards. No referendum will be conducted regarding this change.

Mandated dairy sales to the Soviet Union

Section 105 amends section 1163(a) of the Food Security Act of 1985 to provide for mandated dairy sales to the Soviet Union and former republics in 1991. The Secretary shall make export sales to these countries at such prices as the Secretary determines appropriate. The minimum quantities shall be not less than 250 million pounds of dairy products, of which not less than 175 million pounds shall be nonfat dry milk and not less than 55 million pounds shall be butter.

Regulations

Section 106 requires that the Secretary of Agriculture issue regulations to carry out this title and the amendments made by this title not later than 60 days after enactment.

Effective date

Section 107 provides that, except for the fluid milk standards, this title and the amendments made by this title shall become effective upon enactment.

TITLE II—EMERGENCY CROP LOSS ASSISTANCE

Extension 1990 and to 1991 Crops, Emergency Crop Loss Assistance

Section 201(a) of title II amends chapter 3 of subtitle B of title XXII of the Food, Agriculture, Conservation, and Trade Act of 1990 (the FACT Act). The following section references are to chapter 3 of the FACT Act.

Short Title

Section 2240 provides that this chapter may be cited as the Agricultural Disaster Assistance Act. Subchapter A deals with the provisions for disaster assistance to annual crops (sections 2241 through 2253). Subchapter B deals disaster assistance to orchards (sections 2255 through 2259). Subchapter C deals with disaster assistance to forest crops (section 2261 through 2265). Subchapter D

deals with administrative provisions (section 2266 through 2270). Subchapter E deals with the authorizations of appropriations and proration of benefits (sections 2271 and 2272). Subchapter F deals with the application of the chapter (section 2273).

Payments to program participants for target price commodities

Section 2241(a)(1) requires that the Secretary of Agriculture provide disaster payments to producers who have entered into a contract to participate in the production adjustment program established under the 1949 Act for an eligible crop of wheat, feed grains, Upland cotton, Extra Long Staple cotton, or rice. Payments to program participants will be made if the Secretary determines that, because of damaging weather or related condition, the quantity of the crop that the producers can harvest on the farm is less than 65 percent of the farm program payment yield for the crop multiplied by the sum of the acreage planted for harvest and prevented from being planted (because of damaging weather or related condition) to the crop on the farm.

Payments for payment acres

Section 2241(a)(2)(A) requires that the Secretary assign any deficiency in production of the eligible crop to payment acres based on the ratio the payment acres for the crop on the farm bears to the total acres planted and prevented from being planted. The Secretary shall not make such assignment of loss on crops prior to the 1991 crops. The payment rate on payment acreage shall be 65 percent of the established price for the crop for any deficiency in production greater than 35 percent for the crop.

Payments for nonpayment acres

Section 2241(a)(2)(B) requires that the Secretary assign any deficiency in production of the eligible crop to nonpayment acres based on the ratio the nonpayment acres for the crop on the farm bear to the total acres planted and prevented from being planted. The Secretary shall not make such assignment of loss on crops prior to the 1991 crops. The payment rate for nonpayment acres shall equal to 65 percent of the basic county loan rate for the crop for any deficiency in production greater than 35 percent for the crop.

Crop-year prior to 1991

Section 2241(a)(2)(C) provides that the Secretary shall make a payment to producers of an eligible crop of Extra Long Staple cotton and an eligible crop of wheat, feed grains, Upland cotton, or rice that is prior to the 1991 crop at a rate equal to 65 percent of the established price for the crop for any deficiency in production greater than 35 percent for the crop.

Limitations

Section 2241(a)(2)(D) limits the authority of the Secretary to make payments only to those producers that the Secretary determines, before making a payment, that has been entered into, and is in compliance with, a contract to participate in the production adjustment program for the eligible crop.

Definitions

Section 2241(a)(3) defines terms for use in the section, including payment acres as the acreage planted to wheat, feed grains, Upland cotton, or rice, by a participant in the production adjustment programs has the same meaning as in section 101B(c)(1)(C), 103B(c)(1)(C), 105B(c)(1)(C), or 107B(c)(1)(C) of the 1949 Act. Nonpayment acres equal the total acreage planted to the commodities under section 101B, 103B, 105B, 107B, or 504 of the 1949 Act less the quantity of payment acres planted to the crop.

Crop insurance

Section 2241(a)(3) also requires a producer to obtain multiperil crop insurance, to the extent required under section 2247, before payments may be made under this section.

Reduction in deficiency payments

Section 2241(a)(4) reduces the total quantity of a crop of a commodity on which deficiency payments otherwise would be payable to producers on a farm under the 1949 Act shall be reduced by the quantity on which a disaster payment is made.

Election of payments

Section 2241(a)(5) provides that the Secretary will permit producers to elect whether to receive disaster payments for the crop for the crop-year in accordance with this section in lieu of payments received for the crop under the 0/92 program or 50/92 program for the 1991 or 1990 crop. Only producers of an eligible crop that had a failed crop or were prevented from planting due to damaging weather or related condition shall qualify for this provision.

Spring wheat as replacement crop for Winter wheat

In providing assistance under this section or section 2242 for a crop of Winter wheat, the Secretary shall disregard Spring wheat that is planted as a replacement crop for the Winter wheat.

Advance deficiency payments

Section 2241(b) provides that participants in the wheat, feed grains, Upland cotton, Extra Long Staple cotton, or rice programs shall not be required to refund advance deficiency payments made to the producers for the crop under certain conditions. First, a qualifying amount is determined as the quantity equal to the farm program payment yield multiplied by the sum of the acreage planted and prevented planted of the crop. If the harvested quantity of the crop, because of damaging weather or related condition, is less than the qualifying amount, then the producer shall not be required to refund any advance deficiency payment applicable on up to 35 percent of the qualifying amount. Producers who retain their advance deficiency payments must obtain multiperil crop insurance as required under section 2247. If a producer elected not to receive advance deficiency payments for the crop, the producer may elect whether to receive such advance deficiency payments within 30 days. Any remaining refund of advance deficiency payments shall not be required before July 31 of the year following the

determination of disaster payments for that crop under subsection (a).

Payments to program nonparticipants

Section 2242 provides for disaster payments to nonparticipants in the wheat, feed grains, Upland cotton, Extra Long Staple cotton, or rice programs.

Disaster payments

Section 2242(a) provides that the Secretary shall make disaster payments to such producers if, because of damaging weather or related condition, the total quantity of the crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying 65 percent of the county average yield established by the Secretary for the crop by the sum of acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for the crop under subsection (b). The rate of payments shall equal 65 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 35 percent.

Prevented planting credit

Section 2242(b) requires the Secretary to provide prevented planting credit under subsection (a) with respect to acreage for an eligible crop that producers on a farm were prevented from planting to the crop of the commodity for harvest because of damaging weather or related condition, as determined by the Secretary. This acreage may not exceed the greater of the following: (1) the acreage planted or prevented from being planted to the commodity for harvest in the immediately preceding crop-year minus acreage actually planted to the commodity in the crop-year involved; (2) the average of the acreage on the farm planted or prevented from being planted to the commodity in the 3 immediately preceding crop-years minus acreage actually planted to the commodity in the crop-year involved; or (3) with respect to crops planted as provided under section 504 of the 1949 Act for which no such planting history is established, a quantity of acreage determined to be fair and reasonable by the Secretary. The Secretary shall adjust this acreage to take into account crop rotation practices of the producers.

Limitations

Section 2242(c) reduces the amount of payments made available to nonparticipants by a factor equivalent to the acreage limitation program percentage established for the crop under the 1949 Act. Producers shall enter into an agreement to obtain multiperil crop insurance to the extent required under section 2247 to receive payments.

Peanuts, sugar, and tobacco

Section 2243 provides for disaster payments on peanuts, sugar, and tobacco.

Disaster payments

Section 2243(a) provides that the Secretary shall make disaster payments to producers of peanuts, sugar beets, sugarcane, and tobacco if, because of damaging weather or related condition, the total quantity of the crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying 65 percent of the county average yield (or program yield of peanuts) established by the Secretary for the crop by the sum of acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for the crop under subsection (b). Payments shall be made on any deficiency in production greater than 35 percent of the crop or, with respect to a crop of Burley tobacco or Flue-cured tobacco, 35 percent of the farm's effective marketing quota for the crop for the crop-year. The rate of payments shall equal 65 percent of the payment rate for the commodity. The payment rate for peanuts shall equal the price support level for quota peanuts or the price support level for additional peanuts. The payment rate for tobacco shall be the national average loan rate for the type of tobacco involved, or (if there is none) the market price, as determined under section 2244(a)(2). The payment rate for sugar beets and sugarcane shall be at a level determined by the Secretary to be fair and reasonable in relation to the level of price support established for crops of sugar beets and sugarcane for the crop-year involved, and that, insofar as is practicable, shall reflect no less return to the producer than under the price support levels in effect for the crop-year.

Prevented planting credit

Section 2243(b) requires the Secretary to provide prevented planting credit under subsection (a) with respect to acreage for an eligible crop that producers on a farm were prevented from planting to the crop of the commodity for harvest because of damaging weather or related condition, as determined by the Secretary. This acreage may not exceed the greater of the following: (1) the acreage planted or prevented from being planted to the commodity for harvest in the immediately preceding crop-year minus acreage actually planted to the commodity in the crop-year involved; (2) the average of the acreage on the farm planted or prevented from being planted to the commodity in the 3 immediately preceding crop years minus acreage actually planted to the commodity in the crop-year involved; or (3) with respect to crops planted as provided under section 504 of the 1949 Act for which no such planting history is established, a quantity of acreage determined to be fair and reasonable by the Secretary. The Secretary shall adjust this acreage to take into account crop rotation practices of the producers and any change in quotas for crops of tobacco for the crop-year.

Limitations

Section 2243(c) sets forth the requirement that producers shall enter into an agreement to obtain multiperil crop insurance to the extent required under section 2247 to receive payments.

Special rules for peanuts

Section 2243(d) includes special rules applying to the disaster provisions for peanuts. First, a deficiency in production of quota peanuts from a farm shall be reduced by the quantity of peanut poundage quota that was the basis of the anticipated production that has been transferred from the farm. Second, disaster payments shall be made taking into account whether the deficiency for which the deficiency in production is claimed was a deficiency in production of quota or additional peanuts and the payment rate shall be established accordingly. Finally, the quantity of undermarketings of quota peanuts from a farm for a crop that may otherwise be claimed for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of the peanuts for which payment has been received under this section.

Special rules for tobacco

Section 2243(e) includes special rules applying to the disaster provisions for peanuts. First, the quantity of undermarketings of quota tobacco from a farm for a crop that may otherwise be claimed for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of the tobacco for which payment has been received. Also, disaster payments may not be considered by the Secretary in determining the net losses of the CCC under section 106A(d) of the 1949 Act.

Special rule for sugarcane

Section 2243(f) includes a special rule applying to the disaster provisions for sugarcane. This rule provides that, for purposes of determining the total quantity of a crop of sugarcane that the producers on a farm are able to harvest, the Secretary shall make the determination based on the quantity of recoverable sugar.

Oilseeds and nonprogram crops

Section 2244(a) provides that the Secretary shall make disaster payments to producers of oilseeds and nonprogram crops if, because of damaging weather or related condition, the total quantity of the crop of the commodity that the producers are able to harvest on the farm is reduced by a certain amount. For oilseeds, that amount of reduction is 65 percent of the State, area, or county yield, adjusted for adverse weather conditions during the 3 immediately preceding crop-years, as determined by the Secretary, for the crop by the sum of the acreage planted for harvest and the acreage approved by the Secretary for prevented planting credit under subsection (b). For honey, 65 percent of the historical annual yield of the producers for the crops, as determined by the Secretary. For fish or seafood, 65 percent of the historical annual yield of the acreage of the pond or other aquatic areas in which the fish or seafood are produced or prevented from being produced. For other nonprogram crops, the amount is 65 percent of the yield established by the CCC under paragraph (d)(2) for the crop by the sum of the acreage planted for harvest and the prevented planting acreage.

The payment rate for oilseeds and nonprogram crops shall equal 65 percent of the simple average price for the last 5 years, exclud-

ing the highest- and lowest-price years, for any deficiency in production greater than 35 percent. In the case of 1990 crops, assistance under this section shall be available only to the extent that assistance was not made available under the Disaster Assistance Act of 1989 or any other act for the same losses of the crops.

The calculation of payments for different varieties is limited in several ways. First, the Secretary shall make disaster payments on a crop-by-crop basis, with consideration given to markets and uses of the crops, under regulations issued by the Secretary. For purposes of determining the payment levels on a crop-by-crop basis, the Secretary shall consider as separate crops, and develop separate payment levels insofar as is practicable for, different varieties of the same commodity, and commodities for which there is a significant difference in the economic value in the market. For the purpose of programs administered under this chapter and the Consolidated Farm and Rural Development Act, navel oranges and valencia oranges shall be considered separate crops.

Double cropping

Section 2244(a)(3)(C) provides that for crops that are historically double cropped (including two crops of the same commodity) by the producers on a farm, the Secretary shall treat each cropping separately for purposes of determining whether the crop was affected by damaging weather or related condition and the total quantity of the crop that the producers are able to harvest. This subparagraph shall not apply in the case of a replacement crop.

Exclusions

Section 2244(a)(3)(D) provides that for purposes of determining the total quantity of a nonprogram crop of the commodity that the producers on a farm are able to harvest, the Secretary shall exclude commodities that cannot be sold in normal commercial channels of trade; exclude dockage, including husks and shells, if the dockage is excluded in determining yields; and adjust such quantity to take into consideration declines in the value of the crop of the commodity that are attributable to a deterioration in quality of the commodity caused by the damaging weather or related condition.

Prevented planting credit

Section 2244(b) requires the Secretary to provide prevented planting credit under subsection (a) with respect to acreage for an eligible crop that producers on a farm were prevented from planting to the crop of the commodity for harvest because of damaging weather or related condition, as determined by the Secretary. This acreage may not exceed the greater of the following: (1) the acreage planted or prevented from being planted to the commodity for harvest in the immediately preceding crop-year minus acreage actually planted to the commodity in the crop-year involved; (2) the average of the acreage on the farm planted or prevented from being planted to the commodity in the 3 immediately preceding crop-years minus acreage actually planted to the commodity in the crop-year involved; or (3) with respect to crops planted as provided under section 504 of the 1949 Act for which no such planting history is established, a quantity of acreage determined to be fair and

reasonable by the Secretary. The Secretary shall adjust this acreage to take into account crop rotation practices of the producers.

Limitation

Section 2244(c) sets forth the requirement that producers shall enter into an agreement to obtain multiperil crop insurance to the extent required under section 2247 to receive payments.

Definition of a nonprogram crop

Section 2244(d)(1) defines a nonprogram crop to include all crops for which crop insurance through the Federal Crop Insurance Corporation was available for a crop-year. The definition also encompasses other commercial crops for which the insurance was not available for the crop-year, including ornamentals, such as flowering shrubs, flowering trees, field or container grown roses, or turf; sweet potatoes; and fish or seafood produced or prevented from being produced in established freshwater commercial aquaculture operations. Nonprogram crops does not include a crop covered under section 2241, 2242, or 2243, or oilseeds.

Farm yields

Section 2244(d)(2) provides that the CCC shall establish disaster program farm yields for nonprogram crops. If the producers can provide satisfactory evidence to the CCC of actual crop yields on the farm for at least 1 of the immediately preceding 3 crop-years, the yield for the farm shall be based on the proven yield. If proven yields do not exist for any of the 3 preceding crop-years, the CCC shall establish a yield for the farm by using a county average yield for the commodity, or by using other data available to it. The CCC shall use the best available information concerning county average yields, including extension service records, credible nongovernmental studies, and yields in similar counties.

The producers of nonprogram crops shall have the responsibility to provide satisfactory evidence of crop losses for a crop-year resulting from damaging weather or related condition in order for the producers to obtain disaster payments.

Special rule for valencia oranges

Section 2244(e) provides that the 1990 crop of valencia oranges shall include any crop of valencia oranges, regardless of the year in which those oranges would be harvested, that was destroyed or damaged by damaging weather or related condition in 1990.

Crop quality reduction disaster payments

Section 2245 provides that the Secretary shall make additional disaster payments to producers of any crops under sections 2241 through 2244 who suffer losses resulting from the reduced quality of the crops caused by damaging weather or related condition, as determined by the Secretary.

Eligible producers

Section 2245(b) provides that producers shall be eligible to receive reduced quality disaster payments only if they incur a deficiency in production of not less than 40 percent.

Maximum payment rate

Sections 2245(c) and (d) provide that the maximum payment rate for reduced quality shall not exceed 10 percent, as determined by the Secretary, of the established price for the crop (section 2241 crops), the basic county loan rate for the crop (section 2242 crops), the payment level under section 2243(a)(3) (section 2243 crops), and the payment level under section 2244(a)(2) (section 2244 crops). The amount of payment shall be determined by multiplying the payment rate by the portion of the actual harvested crop on the producer's farm that is reduced in quality by the natural disaster, as determined by the Secretary.

Effect of Federal crop insurance payments

Section 2246 provides that, in the case of producers on a farm who obtained crop insurance for a crop of a commodity under the Federal Crop Insurance Act, the Secretary shall reduce the amount of disaster payments for the crop. Such reduction shall be the amount determined by adding the net amount of crop insurance indemnity payment (gross indemnity less premium paid) received by the producers and the disaster payment for the crop exceeds the amount determined by multiplying (1) 100 percent of the yield used for the calculation of disaster payments; (2) by the sum of the acreage of the crop planted to harvest and the prevented planting credit (or eligible acreage for section 2241 crops); (3) by either the established price (for program participants), the basic county loan rate (for program nonparticipants or crops planted on flexible acres under the program), the payment level under section 2243(a)(3) (sugar beets, sugarcane, peanuts, and tobacco), and the 5-year olympic simple average price of the commodity, as determined by the Secretary (oilseeds and nonprogram crops).

Crop insurance coverage

Section 2247(a) requires that in order to receive a disaster payment, an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act for disaster losses, or forgiveness of the repayment of advance deficiency payments, the producers shall agree to obtain multiperil crop insurance under the Federal Crop Insurance Act for the 1992 crop.

Limitation

Section 2247(b) provides that the producer is not required to obtain crop insurance unless the deficiency in production, with respect to the crop for which a disaster payment under this chapter otherwise may be made, exceeds 75 percent. A producer is also exempt from the crop insurance requirement where coverage is not available to the producers for the commodity for which the payment, loan, or forgiveness is sought; the annual premium rate is greater than 125 percent of the average premium rate on that commodity for the preceding crop-year in the county in which the producers are located; or where the producers' annual premium for the crop insurance is an amount greater than 25 percent of the amount of the payment, loan, or forgiveness received. The producer can also be exempt from the crop insurance requirement where the

producer can establish by appeal to the County Committee that the purchase of crop insurance would impose an undue financial hardship on the producers ~~and that~~ a waiver of the requirement to obtain crop insurance should, in the discretion of the County Committee, be granted.

Implementation

Section 2247(c) provides that the Secretary shall ensure, acting through the County Committees, that producers who apply for assistance, as described in subsection (a), obtain multiperil crop insurance as required under this section. Each producer who is subject to the requirements of this section may comply by providing evidence of multiperil crop insurance coverage from sources other than through the County Committee office, as approved by the Secretary. The Secretary shall provide by regulation for a reduction in the commissions paid to private insurance agents, brokers, or companies on crop insurance contracts entered into under this section sufficient to reflect that the insurance contracts principally involve only a servicing function to be performed by the agent, broker, or company.

Repayment of benefits

Section 2247(d) provides that, notwithstanding any other provision of law, if (before the end of the covered crop-year) the crop insurance coverage is canceled by the producer, the producer shall immediately repay any disaster payment or forgiven advance deficiency payment to the Secretary, and shall be liable for full repayment of all principal and interest outstanding on any emergency loan.

Crops harvested for forage uses

Section 2248 provides that the Secretary shall announce the terms and conditions by which producers may establish a yield of crops that were, or will be, harvested during the crop-year for silage and other forage uses. Such announcement shall be made not later than 45 days after funds are appropriated to carry out this subchapter.

Payment limitations

Section 2249 limits the maximum amount of payments to $100,000 that a person shall be entitled to receive for a crop-year under one or more of the programs under this subchapter. No person may receive disaster payments for a crop-year under this subchapter to the extent that the person receives a livestock emergency benefit for lost feed production in that year under section 606 of the 1949 Act. No person may receive any payment under this subchapter or benefit under title VI of the 1949 Act for livestock emergency losses suffered in a crop-year if the payment or benefit will cause the combined total amount of the payments and benefits received by the person in the year to exceed $100,000. A producer may, however, elect to receive the $100,000 in the payments, in the livestock emergency benefits (up to $50,000), or a combination of payments and benefits specified by the person. The

Secretary shall issue regulations prescribing the rules necessary to ensure a fair and reasonable application of these limitations.

Substitution of crop insurance program yields

Section 2250(a) authorizes the Secretary to permit each producer of a crop of wheat, feed grains, Upland cotton, Extra Long Staple cotton, rice, or oilseeds who has obtained multiperil crop insurance for a crop-year or the preceding crop-year under the Federal Crop Insurance Act to substitute, at the discretion of the producer, the crop insurance yield for the crop for the farm yield otherwise assigned to the producer under this subchapter, for the purposes of determining the producer's eligibility for and amount of a disaster payment.

Adjustment of advanced deficiency payments

Section 2250(b) provides that if an eligible producer elects to substitute yields for the producer's crop, the producer's eligibility for a waiver of repayment of an advance deficiency payment on the crop under this chapter shall be adjusted. Such adjustment shall reduce the amount of production of the crop on which the producer otherwise would be eligible for waiver of repayment of advance deficiency payments by an amount of production equal to the difference between the amount of production eligible for disaster payments under this subchapter using a substituted yield under this section, and the amount of production that would have been eligible for disaster payments using the farm program payment yield otherwise assigned to the producer under this chapter.

Multiperil crop insurance not available

Section 2250(c) provides that an eligible producer may use the crop insurance yield for the producer's crop- of a commodity for the preceding crop-year for substituting yields if the producer demonstrates to the Secretary that, through no fault of the producer, multiperil crop insurance was not made available to the producer for the producer's crop of the commodity for the crop-year involved.

De minimis yields

Section 2251 authorizes the Secretary to determine a de minimis yield for each crop eligible for reduced yield disaster payments. The de minimis yield shall be set at a level that will minimize any incentive (because of the prospect of disaster payments) for a producer to abandon crops that have a value that exceeds the cost of harvesting. In no case may the de minimis yield be less than the amount of production that, when valued at current market prices, equals the average cost of harvesting the crop, as determined by the Secretary. Any producer whose actual yield for a crop is equal to or less than the de minimis yield for the crop shall be considered as having an actual yield of zero for the purpose of calculating any reduced yield disaster payments for the crop under this subchapter.

Producer eligibility

Section 2252 provides that a producer on a farm who produces any crop of a commodity for which disaster payments are made available shall qualify for such payment if the total quantity of the

commodity that the producer is able to harvest on that farm is reduced as a result of damaging weather or related condition in an amount that meets the criteria of section 2241, 2242, 2243, or 2244, even though the producers on the farm, collectively, may not meet the criteria.

Definitions

Section 2253 defines, for the purposes of this chapter, several terms. Damaging weather is defined to include, but not be limited to, drought, hail, excessive moisture, freeze, tornado, hurricane, earthquake, or excessive wind (or any combination thereof). Person shall have the meaning given the term by the Secretary in regulations, which shall conform, to the extent practicable, to the regulations defining the term issued under section 1001 of the Food Security Act of 1985 and the Disaster Assistance Act of 1988. Related condition includes, but is not limited to, insect infestations, plant diseases (including fire blight), or other deterioration of a crop of a commodity, including aflatoxin, that is accelerated or exacerbated naturally as a result of damaging weather.

Orchards

Section 2255 determines the eligibility of orchardists to receive disaster assistance. The Secretary shall provide assistance to eligible orchardists that planted trees for commercial purposes but lost the trees as a result of damaging weather or related condition occurring in 1990 or 1991, as determined by the Secretary. An eligible orchardist shall qualify for assistance only if the orchardist's tree mortality, as a result of the damaging weather or related condition, exceeds 35 percent (adjusted for normal mortality).

Assistance

Section 2256 provides that the Secretary shall provide assistance equal to reimbursement of 65 percent of the cost of replanting trees lost and rehabilitating trees damaged as a result of damaging weather or related condition in the calendar year involved in excess of 35 percent mortality (adjusted for normal mortality), or, at the discretion of the Secretary, sufficient seedlings to reestablish the stand.

Limitation on assistance

Section 2257 limits the total amount of payments that a person shall be entitled to receive under this subchapter for a calendar year to not more than $25,000, or an equivalent value in tree seedlings. The Secretary shall issue regulations prescribing rules necessary to ensure a fair and reasonable application of this limitation.

Definition

Section 2258 defines eligible orchardist to mean a person who produces annual crops from trees for commercial purposes and owns 500 acres or less of the trees.

Duplicative payments

Section 2259 provides that the Secretary shall establish guidelines to ensure that no person receives duplicative payments under

this subchapter and the forestry incentives program, agricultural conservation program, or other Federal program.

Forest crops

Section 2261 provides that the Secretary shall provide assistance to eligible tree farmers that planted tree seedlings in 1990 or 1991 for commercial purposes but lost the seedlings as a result of damaging weather or related condition occurring in 1990 or 1991, respectively, as determined by the Secretary. An eligible tree farmer shall qualify for assistance only if the tree farmer's tree seedling mortality, as a result of the damaging weather or related condition, exceeds 55 percent (adjusted for normal mortality).

Assistance

Section 2262 provides that the assistance provided by the Secretary to eligible tree farmers shall consist of either reimbursement of 65 percent of the cost of replanting seedlings lost due to damaging weather or related conditions in the calendar year involved in excess of 35 percent mortality (adjusted for normal mortality), or, at the discretion of the Secretary, sufficient tree seedlings to reestablish the stand.

Limitation on assistance

Section 2263 limits the maximum amount of payments that a person shall be entitled to receive under this subchapter to $25,000 for a calendar year, or an equivalent value in tree seedlings. The Secretary shall issue regulations prescribing rules necessary to ensure a fair and reasonable application of this limitation.

Definition

Section 2264 defines an eligible tree farmer to mean a person who grows trees for harvest for commercial purposes and owns 1,000 acres or less of the trees.

Duplicative payments

Section 2265 provides that the Secretary shall establish guidelines to ensure that no person receives duplicative payments under this subchapter and the Forestry Incentives Program, Agricultural Conservation program, or other Federal program.

Administrative provisions

Section 2266 determines the rules of which producers shall be ineligible for payments under this chapter. Generally, a person who has qualifying gross revenues in excess of $2 million annually, as determined by the Secretary of Agriculture, shall not be eligible to receive any disaster payment or other benefits under this chapter. Qualifying gross revenues are defined to mean either the gross revenue from the person's farming, ranching, and forestry operations (where a majority of the person's annual income is received from farming, ranching, and forestry operations) or the person's gross revenue from all sources (if less than a majority of the person's annual income is received from farming, ranching, and forestry operations).

Timing and manner of assistance

Section 2267 provides that the Secretary make disaster assistance available under this chapter, as soon as practicable after the date on which appropriations are made available to carry out this chapter. No payment shall be payable or benefit due until a completed application for the payment or benefit for a crop of a commodity has been approved. The Secretary may make payments available under subchapter A in the form of cash, commodities, or commodity certificates, as determined by the Secretary.

Commodity credit corporation

Section 2268 provides that, except as provided in section 2271, the Secretary shall use the funds, facilities, and authorities of the CCC in carrying out this chapter. The authority provided by this chapter shall be in addition to, and not in place of, any authority granted to the Secretary or the CCC under any other provision of law.

Emergency loans

Section 2269 provides that section 321(b) of the Consolidated Farm and Rural Development act shall not apply for a calendar year to persons who otherwise would be eligible for an emergency loan under subtitle C of such Act, if the eligibility is the result of damage to an annual crop planted for harvest in the year.

Regulations

Section 2270 requires that the Secretary or the CCC, as appropriate, issue regulations to implement this chapter as soon as practicable after the date on which appropriations are made to carry out this chapter, without regard to the requirement for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

Appropriations

Section 2271 provides that any benefits or assistance (including the forgiveness of unearned advanced deficiency payments or any emergency loans) made available under this chapter shall be provided for a year only to the extent provided for in advance in appropriations acts. To carry out this chapter, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 and 1992. Sums appropriated under this section shall remain available until expended.

Proration of benefits

Section 2272 provides that any funds made available for carrying out this chapter for a calendar year in appropriations acts shall be prorated to all producers eligible for assistance under this chapter in the year.

Application of chapter

Section 2273(a) defines an eligible crop to mean the 1990 or 1991 crop of wheat, feed grains, Upland cotton, Extra Long Staple

cotton, rice, peanuts, oilseeds, sugarcane, sugar beets, tobacco, or nonprogram crop.

Section 2273(b) provides that assistance under this chapter shall be provided for the 1990 and 1991 crops of wheat, feed grains, Upland cotton, Extra Long Staple cotton, rice, peanuts, oilseeds, sugarcane, sugar beets, tobacco, and nonprogram crops only with respect to crop damage caused by damaging weather or related condition occurring during 1990 or 1991, respectively (or with respect to a fall seeded crop, the fall of 1989 or 1990, respectively). Producers on a farm eligible for benefits under this chapter with respect to both the 1990 and 1991 crop-years of a commodity may elect to receive benefits with respect to either the 1990 or 1991 crop-year of the commodity, but not both.

Clerical amendments

Section 201(b) of this act provides clerical amendments to the table of contents of the FACT Act to reflect the amendments made by this Act.

Emergency grants to assist low-income migrant and seasonal farmworkers

Section 202 of this act amends section 2281 of the FACT Act by inserting ", permanent," after "migrant" each place it appears. Section 2281(b) is also amended by inserting "(including a packinghouse worker)" after "an individual"; and "or packinghouse work" after "farm work". Clerical amendments to the section heading and table of contents are also made.

Emergency aquaculture program

Section 203 amends subtitle B of title XXII of the FACT Act by adding a new chapter 5 on emergency aquaculture assistance. New section 2276(a) of the FACT Act provides that the Secretary shall implement an emergency aquaculture program to assist owners and operators of established commercial fresh water aquaculture operations in restoring the retention levees and other structural improvements that have been damaged by damaging weather or related condition in 1991.

Cost-share assistance

Section 2276(b) of the FACT Act requires that the Secretary enter into cost-share agreements with the owners and operators for the restoration of the damaged levees and other structural improvements. The Secretary shall share half the costs incurred under each agreement based on damage surveys made pursuant to regulations issued by the Secretary.

Funding

Section 2276(c) of the FACT Act provides that the Secretary shall use the funds, facilities, and authorities of the CCC to carry out this section as provided in section 2268. Any benefits or assistance made available under this chapter shall be provided only to the extent provided for in advance appropriations acts, not to exceed $1 million. To ensure the equitable award of funds for agreements under this section, the Secretary may prorate, and adopt proce-

dures to facilitate the proration of, funds made available under this section.

Emergency livestock feed assistance

Section 204 of this act amends section 604 of the 1949 Act to provide that the Secretary shall consider, if appropriate, the level of precipitation during a growing season in a State, county, or area in a State in making a determination whether to provide emergency livestock feed assistance or other additional assistance under this title.

Emergency Forage Program

Section 205 of this act provides new authority to require the Secretary to implement an Emergency Forage Program for established pasture damaged by damaging weather or related condition in 1991, under which the Secretary shall enter into cost-share agreements with owners or operators of the damaged land to provide for reseeding of forage crops on the land in order to facilitate late fall 1991 and early spring 1992 grazing and haying. Assistance may be provided to the owners and operators only when the forage crop will not regenerate naturally, reseeding is the most cost-effective method for reestablishing the forage crop, and reseeding is not undertaken simply to improve the forage crop damaged by the drought.

Cost-share assistance

Section 205(b) of this act requires that the Secretary share half the costs incurred under each emergency forage agreement entered, including the costs of seed, fertilizer, and other inputs on reseeded pasture. Section 205(c) limits the total amount of payments an owner or operator of pasture shall be entitled to receive under this section to $3,500. The Secretary may provide cost-share assistance for reseeding only if the reseeding is to be used for nonannual crops planted for pasture purposes.

Funding

Section 205(d) of this act provides that the Secretary shall use the funds, facilities, and authorities of the CCC to carry out this section as provided under section 224. Any benefits or assistance made available under this section shall be provided only to the extent provided for in advance appropriations acts, not to exceed $50 million. To ensure the equitable award of agreements under this section, the Secretary may prorate, and adopt procedures to facilitate the proration of, funds made available under this section.

Definition

Section 205(e) of this act defines damaging weather and related condition to have the same meanings provided under section 2253 of the FACT Act, as amended by this act.

Congressional Budget Office Cost Estimate

Congressional Budget Office final cost estimates of the bill were not available at the time the report was filed. Preliminary esti-

mates by the Congressional Budget Office indicate that the bill will not add to the Federal deficit and will likely result in a reduction in direct spending of approximately $59 million. The change in outlays will be as follows:

[In millions of dollars]

Fiscal year:	*Amount*
1992	(24)
1993	(16)
1994	(9)
1995	(8)
1996	(2)
1992–96	(59)

Regulatory Impact Evaluation

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact that would be incurred in carrying out the Committee substitute bill.

The bill is comprised of two parts which deal with the dairy sector and with disaster assistance. The bill consists of changes to existing legislation, principally the dairy and crop insurance and disaster assistance titles of the Food, Agriculture, Conservation, and Trade Act of 1990. These changes are within parameters that continue to emphasize the need for a minimum amount of Government involvement in farm businesses while recognizing a need for some involvement on the part of Government to assist those members of society that have been harmed by market or natural forces.

Any legislation that uses taxpayer money to provide benefits to individuals properly requires some regulation. Even in the case of the dairy provisions of this bill, which will not increase Government expenditures, certain records must be kept by individual producers and by Government agencies. The bill continues to reflect the policy that regulation and paperwork should be kept to the minimum amount necessary to ensure proper administration and compliance for the programs in this bill.

DAIRY

This bill makes changes to existing dairy programs that are similar to earlier programs or those currently existing in a particular State. In the hearings the Committee held, testimony established that large numbers of dairy farmers are failing due to financial hardship. Even some of the more efficient producers are experiencing severe problems. This bill seeks to restore stability to the dairy sector and to provide a safety net for when market forces drive prices below cost of production. The provisions in this bill would provide stability for both the approximately 200,000 dairy farmers and for the thousands of employees in milk product processing plants across the country.

The most important innovation is the creation of a surplus reduction program, though it is akin to the 1984–85 diversion program. The bill also establishes a surplus prevention program.

The bill increases the support price from the current level of $10.10 per hundredweight of milk to $11.10 from January 1992

through December 1995. If net removals by the Commodity Credit Corporation (CCC) exceed 5 billion pounds in any year, then the support is raised to $12.10 per hundredweight. The principal effect will be to stabilize the dairy sector and provide greater price support in periods when supply exceeds demand (often in the spring). Otherwise, the support price increase has no effect on prices as long as market price remains above the support.

Under ongoing dairy support operations, the bill establishes for 1992 and then gives the Secretary of Agriculture (the Secretary) discretion in 1993 through 1995 to allocate the rate of price support between the CCC purchase prices of nonfat dry milk and butter. If the Secretary determines the rate of relative price support that does not result in the lowest level of CCC expenditures, the Secretary shall notify the specified Committees in the House and Senate. The Secretary may adjust the purchase prices of nonfat dry milk and butter, at most, twice a year.

The bill also requires the secretary to assess the ability of a recourse loan program for dairy products to improve the orderly marketing of dairy products. It authorizes such a recourse loan program for processed milk products in 1993. It would reduce the need for the CCC to acquire product to support price and would likely operate at minimal CCC cost. The program would be voluntary for participants.

The Secretary will be required to establish a surplus reduction program in each of the years 1992 through 1995. A determination must be made by the Secretary of the national reduction in milk marketings necessary in the following year to limit CCC net removals to not more than 4.5 billion pounds (milk equivalent, total milk solids basis). The Secretary shall ensure that participation in the surplus reduction and prevention programs will be proportionately distributed among seven regions in the contiguous United States as specified in the bill.

Under the provisions of the legislation the Secretary will provide cash payments from the CCC to producers who enter into surplus reduction contracts to reduce the quantity of milk they market commercially for the relevant time period. The Secretary must determine the amount of payments, or accept bids from producers, in order to reduce marketings nationally and at a regional level. The contracts may last from 24 to 36 months.

The bill requires determination of a producer's milk marketing history, which is either 1991 marketing, or an average over recent years. The producer would have to keep necessary records to document his or her marketing history. Since milk checks are written to producers by handlers/processors regularly, this data is readily available. Those producers who chose to participate in the surplus prevention program prior to the surplus reduction program would not be penalized for doing so in determining their marketing history.

The Secretary is required to allow a producer to enroll in the program for a period of at least 30 days prior to the beginning of the program.

Payments will be made by the Secretary at least quarterly with an annual settlement payment based on the total reduction in the amount of marketings during the year.

The Secretary must also offer surplus prevention program contracts in which the producer agrees not to increase milk marketings from the previous year. The Secretary will determine the quantity of milk considered marketed in each year when a participant contracts with the Secretary under this program. The producer must keep necessary records to document his or her marketing history. Those producers who chose to participate in the surplus prevention program in prior years would not be penalized for doing so in determining their marketing history.

The Secretary may offer to modify contracts if the secretary determines that CCC net removals will fall excessively below 4.5 billion pounds (milk equivalent, total milk solids basis).

The producer may assign a contract under specified circumstances, or in the case of death, the contract may be assigned by the estate of the producer.

The Secretary will ensure compliance by producers who enter surplus reduction or prevention contracts on a quarterly basis, with penalties set forth in the bill.

The Secretary will stagger the beginning and ending dates and vary the duration of surplus reduction contracts.

The Secretary may use the services of State and County Committees and, on a reimbursable basis, the services of administrators of Federal milk marketing orders and State milk marketing programs.

The Secretary will provide for two reductions in the price received for all milk commercially marketed by producers that do not enter into surplus reduction or surplus prevention contracts. One reduction in price will meet the requirements on dairy products by the Omnibus Budget and Reconciliation Act of 1990, the second reduction in price will be used to reimburse the CCC for payments in the surplus reduction program.

The Secretary will prescribe how such reductions shall be collected and remitted to the CCC. Persons that purchase milk from a producer will remit the funds, or the producer who markets milk directly to consumers will remit them directly to the CCC. The Secretary will determine if there are other circumstance in which the funds shall be remitted directly to the CCC.

The bill establishes, beginning January 1, 1994, standards of identity that would increase the minimum level of solids not fat in fluid milk. Currently, the Food and Drug Administration sets a minimum of 8.25 percent solids not fat in all beverage milk, from skim milk to whole milk. This bill would raise those standards. Federal Milk Market Order Administrators will test for compliance with the standards of this bill.

The Secretary must sell for export, to the Soviet Union and its former republics, minimum levels of CCC butter and nonfat dry milk in calendar year 1991. The CCC often sells butter and nonfat dry milk from its stocks for export through the Foreign Agricultural Service.

DISASTER ASSISTANCE

This bill generally extends and amends the disaster assistance provisions of title XXII of the Food, Agriculture, Conservation, and

Trade Act of 1990. There are more than 2 million farms in the United States. This bill would authorize programs subject to appropriations and allow the Secretary to provide assistance to those whose 1990 or 1991 crops were struck by disaster and who meet certain criteria.

Under the bill, the Secretary will make disaster payments available to producers of a variety of crops, orchards, forest crops, livestock, aquaculture, and forage. The bill specifies the amount of deficiency in production and the payment rate at which it will be supported either for inability of the producer to plant or harvest the crop, or due to deterioration in crop quality. In general, for producers of annual crops, orchards, and forest crops, assistance may be provided for losses of more than 35 percent of their crop or orchard at a rate of 65 percent of a determined price or cost of replacement.

Participants of wheat, feed grains, Upland cotton, Extra Long Staple cotton, and rice production adjustment programs may not be required to refund specified advance deficiency payments. The Secretary shall allow producers who elected not to receive specified advance deficiency payments to elect whether to receive them. If the Secretary determines that any portion of the advance deficiency payments must be refunded, it will not be required before July 31 of the following year.

Similar payments to program nonparticipants and producers of oilseeds and nonprogram crops are detailed, and special rules account for differences in the peanut, tobacco, sugarcane, and sugar beet payments are specified. Producers of nonprogram crops will be responsible for providing satisfactory evidence of crop losses to obtain disaster payments.

The Secretary will make additional disaster payments to producers who suffer losses from reduced crop quality caused by damaging weather or related condition, as determined by the Secretary.

The Secretary will reduce the disaster payments to account for the effect of Federal crop insurance payments.

Producers of annual crops who elect to receive disaster payments, emergency loans under subtitle C of the Consolidated Farm and Rural Development Act for crop losses due to damaging weather or related condition, or forgo repayment of advance deficiency payments must obtain multiperil crop insurance for the 1992 crop, with specified exemptions. The Secretary will act through the County Committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act and section 332 of the Consolidated Farm and Rural Development Act to ensure that producers who apply for assistance obtain multiperil crop insurance. The Secretary will provide for a reduction in the commissions paid to insurance agents or others on insurance contracts entered into under this section. If the producer cancels the crop insurance, the producer will be liable for repayment of specified benefits.

The Secretary will announce the terms and conditions by which producers may establish a yield for those crops that were, or will be, harvested during the crop-year for silage and other forage uses.

The total amount of payments a person may receive is set at $100,000. No double benefits are allowed in terms of disaster pay-

ments authorized in this bill and livestock emergency benefits for lost feed production in the same year under other legislation.

The Secretary will issue regulations prescribing fair and reasonable rules necessary to ensure the application of payment limitations as established in the bill.

As specified, the Secretary may permit certain producers to substitute, at their discretion, the crop insurance yield for the farm yield for the purposes of determining the producers' eligibility for a disaster payment. However, if they so choose, their eligibility for a waiver of repayment of an advance deficiency payment will be adjusted. If a producer demonstrates to the Secretary that multiperil crop insurance under the Federal Crop Insurance Act was not made available for the crop-year involved, through no fault of the producer, then the producer may use the crop insurance yield for the preceding crop-year to substitute for the farm yield.

The Secretary will determine a de minimis yield for each crop eligible for reduced yield disaster payments in this bill. The de minimis yield may not be less than the amount of production that, when valued at current market price, equals the average cost of harvesting the crop, as determined by the Secretary.

The Secretary will provide assistance to eligible orchardists and tree farmers for losses greater than 35 percent of their orchard or seedlings (adjusted for normal mortality) as a result of damaging weather or related conditions occurring in 1990 or 1991, as determined by the Secretary. The level of assistance will consist of either reimbursement of 65 percent of the cost of replanting or rehabilitating for losses in excess of 35 percent or provide seedlings. Maximum assistance for which a person is entitled in a calendar year may not exceed $25,000 or an equivalent value in tree seedlings. The Secretary will establish regulations to ensure a fair and reasonable application of these limits and also guidelines to ensure that no person receives duplicative payments under relevant subchapters of this bill and the Forestry Incentives Program, Agricultural Conservation Program, or other Federal programs.

A person who has qualifying gross revenues above $2 million annually, as determined by the Secretary, will not be eligible to receive any disaster payment or other benefits under this bill.

The Secretary will make disaster assistance available under this bill as soon as practicable after the date on which appropriations are made available to implement this bill. Producers must complete an application for the payment or benefit for assistance.

The Secretary or the CCC, as appropriate, will issue regulations to implement this chapter as soon as practicable after the date on which appropriations are made to implement this bill.

Any benefits or assistance made available under this bill shall be provided for a year only to the extent provided for in advance in appropriations acts. This bill authorizes to be appropriated such sums as may be necessary during fiscal year 1992. Such sums shall remain available until expended.

Any funds made available for implementing this bill for a calendar year in an appropriations act shall be prorated to all producers eligible for assistance under this bill in the year.

Producers eligible for benefits under this bill for both the 1990 and 1991 crop-years of a commodity may elect to receive benefits

for either the 1990 or 1991 crop-year of the commodity, but not both.

Permanent farmworkers, in addition to migrant farmworkers, and packinghouse workers are included in assistance provided for in the Food, Agriculture, Conservation, and Trade Act of 1990.

The Secretary will implement an emergency aquaculture program through cost-share agreements through the CCC. Subject to advance appropriations, not more than $1 million of CCC funds may be expended.

The Secretary will consider, if appropriate, the level of precipitation during a growing season in a State, county, or area in a State in making a determination whether to provide emergency livestock feed assistance or other additional assistance under this bill.

The Secretary will implement an emergency forage program for established pasture damaged by damaging weather or related conditions in 1991 under which the Secretary shall enter into cost-share agreements with owners or operators of the damaged land to provide for reseeding of forage crops. Subject to advance appropriations, not more than $50 million of CCC funds may be used to implement a cost-share program. The maximum amount of assistance an owner or operator may receive is $3,500.

The disaster provisions of this bill are designed to assist the economic well-being of those producers who have been struck by natural disaster. A bill such as this will provide temporary relief for such victims and help them recover their operations' full productive capacity. Consumers should not be affected by these provisions. While greater accountability and paperwork will be required by participating producers, this bill should have no impact on the personal privacy of the individuals affected.

The section-by-section analysis found in this report also contains statements regarding the regulatory impact of the "Dairy and Disaster Assistance Act of 1991" and should be considered part of this regulatory impact statement.

ADDITIONAL VIEWS OF SENATORS LUGAR, DOLE, SEYMOUR, AND HELMS

All of us represent dairy producers, and also represent states that suffered substantial crop losses in 1990 or 1991 because of drought, flooding and other natural disasters. Our interest in legislation that genuinely addresses the need for disaster relief and offers long-term hope for a prosperous dairy economy is obvious.

A BILL THAT WILL NOT BECOME LAW

We are concerned, however, that H.R. 2893 as reported by the Committee on Agriculture, Nutrition, and Forestry has become primarily a political document. Plainly stated, the bill as passed will not become law. If the President received this bill in its present form, there is little doubt that a veto would be the result. Secretary Madigan's letter of October 23 makes this fact plain:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, October 23, 1991.

Hon. PATRICK LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: I am receipt of your request for a statement regarding the Administration's position on the October 10, 1991 draft of the Dairy and Disaster Assistance Act of 1991.

The Administration will reluctantly agree to the concept of a voluntary, producer financed, paid diversion program such as that contained in the draft. We continue to oppose provisions such as those contained in the draft that directly or indirectly raise the price support level. We also oppose mandated changes in the butter/powder price relationship. In addition, mandatory dairy product sales into the international market is contrary to the trade policy of the United States.

The disaster authorization contained in the draft, if funded, is estimated to cost $3.2 billion. Prior to the end of the fiscal year the Administration had agreed to $1 billion in disaster assistance spending combined with appropriate budgetary offsets. Unfortunately, the needed legislation was not forthcoming in time for the offsets to apply. Authorizations of the magnitude contained in the draft simply build false expectations in farm county and therefore cannot be supported by the Administration.

If this draft were to ultimately be approved by Congress, the President's senior advisors would recommend that the President veto such legislation.

Sincerely,

EDWARD MADIGAN,
Secretary.

Several of us strongly agree with the points the Secretary makes; others differ on some points. The bottom line, however, is clearly that H.R. 2893 will not be signed into law.

Instead of attempting to craft legislation that could be supported by the Administration, the majority have insisted on a price support increase, as well as other provisions to which the Administration has repeatedly objected. Moreover, they have included disaster payment provisions far in excess of any amounts that are reasonably likely to become available. Budget offsets have not so far been found even for the $1.75 billion in disaster aid approved by the House Committee on Appropriations; it is difficult indeed to imagine sufficient offsets to fund the $3.2 billion program proposed by the Agriculture Committee Democrats, unless they intend to pursue truly draconian cuts in farm price support programs. If that is their intent, they should say so; or if it is their intent not to pay for the disaster program at all, they should say that as well, so farmers can know how seriously to take this legislative action.

LIVESTOCK SECTOR CONCERNS

We have other concerns with the dairy legislation, which differ from Senator to Senator. Most of us, for example, believe that even if the Administration accepts the concept of a diversion program, further refinement may be needed to prevent that program from having an adverse impact on the nation's livestock industry. Our constituents who raise beef cattle and other livestock are not trying to dictate dairy policy, but they legitimately object to an artificial government stimulus that leads to large numbers of cows going to slaughter in a short period of time, depressing cattle prices.

The National Cattlemen's Association opposes H.R. 2893, and has sent the following letter to members of our Committee:

NATIONAL CATTLEMEN'S ASSOCIATION,
Washington, DC, October 21, 1991.

Hon. RICHARD G. LUGAR,
Hart Senate Building,
Washington, DC.

DEAR SENATOR LUGAR: On behalf of the National Cattlemen's Association, I am writing to express our position on proposed dairy legislation that calls for a paid milk diversion plan. Historically, cattle producers have strongly opposed dairy programs that artificially encourage or mandate the slaughter of dairy cows in order to reduce surplus milk production. Clearly, the proposed milk diversion plan, like the 1983 milk diversion program and the 1986 Dairy Termination Program, falls into this category.

NCA has been, and continues to be, a strong advocate for allowing the market system to work. The intent of both the 1985 farm

bill and the 1990 farm bill was to allow market forces to play a more important role in the function of the major government commodity programs, including dairy.

The supply and demand forces are working for dairymen. In the fall of 1990, milk prices were at near record highs. Milk production increased to meet demand. Unfortunately, too much milk was produced and milk prices fell dramatically in the spring of 1991. In response to this, dairy cow slaughter increased, and in late summer of this year, the price of milk has increased. Currently, milk production has decreased to such a level, because of additional dairy cow slaughter, that it is estimated that only 1.5 billion pounds of milk will have to be diverted in 1992. This leads us to believe that if the current dairy program is allowed to work, then supply and demand equilibrium for milk will be accomplished in the near term.

Beef cattle producers understand the economic pain that the supply and demand system can have on producers. Specifically, cattle feeders today are losing from $50 to $75 on every fed animal being sold. The losses were even greater earlier this year. It will be some time before fed cattle prices reach profitable levels again. These losses soon will be reflected in calf prices received by cow/calf producers.

We cannot support the current efforts to implement a program that will pay dairy farmers to reduce their production (i.e., cow slaughter) in order to stabilize the industry. We are well aware that extra dairy cows will have to be slaughtered in order to bring milk production down to acceptable levels. The current program is accomplishing this with individual dairy producers making decisions based on market signals. Intervening in the market place at this point will only exacerbate the problem and prolong the day when it will become necessary to address the issue of balancing supply and demand for milk.

This leaves the cattle industry in a quandary. To allow a supply management program for milk to be implemented will pose two problems for the cattle industry. The first being, how to deal with the real and perceived effect of a government program to reduce dairy production and trying to forecast the effect it will have on the cattle market. The second problem is how to deal with the known fact that another dairy program to hold down milk production will be needed when the current program expires. It is not good business for cattle producers to have to second guess every year what Congress will do with excess dairy cows. More importantly, supply management programs for milk cause a negative psychological mindset in the cattle markets.

It is our hope that Congress will let the individual dairy producer decide when, how and why he or she will adjust to the current dairy market. This is why we encourage the Congress to reject government supply controls for the dairy industry and allow the current market system to work. We believe it is the only course that will ensure a fair market for both our industries.

Sincerely,

DON B. SMITH,
President.

OTHER CONCERNS

Our remaining concerns vary. Several of us are especially interested in the impact of dairy legislation on federal nutrition programs: USDA projects an increase in the cost of food assistance programs of $215 million in 1993 and $255 million in 1994, with similar increases thereafter, even if price supports remain at $11.10. (An increase to $12.10, entirely possible and even probable under the terms of the bill, would mean average annual program increases of $400 million.) The Women, Infants, and Children (WIC) program would be able to serve an average of 60,000 fewer mothers and babies per month (or 91,000 fewer at $12.10).

Moreover, several of us are concerned about the impact on consumers generally, both from support price increases and from the higher non-fat solids standards mandated in the bill. While some of us favor the latter as a potential demand-enhancing mechanism, others find that the standards would impose a new burden on business and consumers which is unjustified.

With respect to such consumer issues, we note the opposition of Public Voice, certainly not a partisan Republican group, to the legislation approved by the committee:

PUBLIC VOICE,
Washington, DC, October 22, 1991.

Hon. PATRICK J. LEAHY,
Committee on Agriculture, Nutrition, and Forestry, Russell Senate Office Building, Washington, DC.

DEAR SENATOR PATRICK J. LEAHY: We understand that an amendment that would increase the dairy support price and change the standard of identity for fluid milk will be introduced tomorrow as part of the Agriculture Committee markup of the Disaster Assistance bill. We are writing to urge committee members not to support the amendment. The amendment is a costly and inequitable way of addressing farm income problems and will subvert rulemaking procedures for federal food standards.

A legislated increase in the minimum price support level for dairy products would not only undermine the 1990 farm bill agreement, it would impose a hidden, regressive surtax on U.S. consumers. Even a $1.00 per cwt. increase in the minimum price support level would likely cost U.S. consumers approximately $1 billion annually in higher dairy product prices.

Low-income consumers would be the hardest hit since their spending for milk and other dairy products represents a significant portion of their disposal incomes. Higher prices would result in a decline in family nutrition as consumers were forced to reduce their consumption of dairy products. And participants in federal feeding programs, such as the WIC and food stamp programs, would be most adversely affected. Higher dairy prices would decrease the purchasing power of food stamp recipients and reduce the beneficial impact of the WIC program.

Legislatively mandating a change in the standard of identity for fluid milk is also not advisable. First of all, such a change would, according to Secretary Madigan, impose on consumers an additional increase of 8 cents per gallon in the retail price of fluid milk.

Of equal importance is the fact that such action would undermine public participation in the establishment of federal standards of identity for food products. Public Voice is a leader in the effort to increase public participation in the establishment of federal food standards and recently published a research report on that issue.

Currently, the ingredient composition of dairy products—as well as of other foods with minimal meat and poultry content—is governed by standards of identity established through federal rulemaking procedures by the Food and Drug Administration. Through rulemaking, all interested parties have the opportunity to present their positions, in detail, regarding proposed changes in standards of identity. These positions can then be weighed carefully and at length by highly qualified FDA staff.

Proposed changes in the standard of identity for fluid milk must be subjected to a comprehensive regulatory review process. Bypassing FDA rulemaking with Congressional action would send a dangerous signal to other food industries that they can push through Congress what they may not be able to obtain through a comprehensive rulemaking process.

We hope that the Committee will seek other solutions to income problems in the dairy sector that will be beneficial to both dairy producers and U.S. consumers, and we look forward to working with you toward that end.

Sincerely,

ELLEN HAAS,
Executive Director.

CONCLUSION

With respect to both dairy and disaster legislation, the Administration has expressed its willingness to be accommodating, as Secretary Madigan's letter makes clear. It is most unfortunate that the Administration's proposal to fund a $1 billion disaster relief package was rebuffed; if Congress had been able to act, farmers could already be signing up for benefits. In the same way, if the goal of the majority is to provide incentives for milk production cutbacks in the near future, they are going about it the wrong way. By provoking a confrontation with the Administration, they will cause a substantial delay (probably of some months' duration) in the beginning date for a diversion program—and may succeed in preventing it from happening at all.

To promise support price increases in the face of a certain veto; to hold out the prospect of a disaster payment program nearly twice as expensive as the most expensive legislation being seriously considered by the Appropriations committees: Such actions are not favors to farmers. They are an unfortunate attempt to turn serious agricultural issues—which have traditionally been kept bi-partisan—into pure politics.

Senators' opinions about solving agricultural problems do not traditionally split along party lines. Some Republicans, for example, have supported legislation that would raise dairy price supports; some of us have sponsored disaster legislation that, if not offset, would have been more costly than the $1 billion package proposed by the Administration.

We are ready to cooperate with the majority and the Administration to write acceptable legislation. We want to find a solution. We do not, however, want to participate in a cynical political exercise that leads, in the end, to no legislation at all. If our colleagues share that view, we stand ready to work together.

ADDITIONAL VIEWS OF SENATOR THAD COCHRAN

I have no objections to the reporting of the Dairy and Disaster Assistance Act of 1991 out of the Committee. However, I have reservations about certain provisions of this bill.

First, it is my understanding that the disaster section of this bill would be scored at $3.2 billion. There is a need to modify the disaster provisions to control these costs.

Second, the potential exists for disproportionate impacts of the proposed diversion program on consumers, producers, and processors in different milk markets around the country. I hope that we can work out a compromise which will be responsive to the situations which exist in the various milk producing regions of the country.

Finally, changing the standards of milk by Congress to mandate more nonfat solids could hurt the dairy industry severely. Therefore, this provision should be removed from the bill language.

ADDITIONAL VIEWS BY SENATOR MITCH McCONNELL

For more than 40 years, the government's objective in a national dairy policy has been to provide stability to farmer's incomes, ensure a continuously adequate supply of fresh, healthy fluid milk and milk products to consumers at affordable levels, and accomplish these goals through an orderly market process.

However, a number of problems complicate this process from time to time. Dairy farmer's are at a distinct disadvantage to most other sectors of agriculture. They lack any viable marketing alternatives.

Additionally, we are debating changes in policy for an industry which is changing rapidly. Today, the average milk cow produces 300 percent more milk than her ancestors five generations ago. New technology, better genetics, better nutrition, and improved management all account for this more productive generation of dairy animals. But, the technology does not stop here, our diary policy must be sensitive to additional advances in technology.

While I believe the marketplace alone is the best indicator of supply and demand some very harsh realities suggest government involvement is often necessary. Periods of extended instability in milk prices could be extremely harmful to our nation's dairy industry.

There are about 200,000 individual production units throughout the country. Some states and areas produce primarily for their fluid milk market. In other areas, supplies may exceed the fluid milk requirement, thereby leading to the manufacture of lower value dairy products such as butter, nonfat dray milk and cheese. Therefore, arriving at a consensus on one single policy which addresses all the problems of every region is difficult.

Given the differences in regional production relative to consumption, the potential exists for disproportionate impacts on consumers in different milk markets around the country. As this bill is currently written, differences in regional milk markets are ignored. A milk diversion program should not only consider the magnitude of production reductions called for under the program, but the effects on a region's entire dairy industry and its consumers—in the short run and the longer term.

Regional markets are not homogeneous, and uniform production adjustments may not yield uniform results. These differences needed to be taken into consideration if the impacts of a diversion program are to be felt fairly, not only by producers but by processors and consumers.

For the fluid deficit Southeast region, unless a provision is made to help minimize the impacts of participation in a diversion program on the more price sensitive and highly inelastic fluid milk market of the region, the impacts of a diversion program will be significantly greater and more disruptive. Instead of providing

price stability, the diversion program will lead to greater price volatility.

I, therefore, plan to offer an amendment to the bill as reported by the committee. The amendment will permit dairy producers who wish to participate in the diversion program in the Southeast to do so on the same terms as producers in other regions of the country. At the same time safeguards would be provided to help assure that a dairy diversion program does not impact the regions dairy industry and consumer to a greater extent than a diversion program would impact other regions. I ask that my colleagues recognize the need for this limited market safeguard and support the amendment.

Additionally I work to strike the provision which mandates an increase in the Nonfat solids standards for milk. This provisions requires milk processors to add powdered milk to fluid milk to order to obtain "protein fortified milk". However, increasing the nonfat solids in milk not only adds protein, but significantly increases calories (+17%), sodium (+25%) and lactose (+21%).

Since processors will be required to add a new step in the processing of milk it will obviously add to their cost of doing business and the additional cost will ultimately be borne by the consumer. All for something there is no indication they actually want.

Currently consumers in many areas of the country have the choice of buying milk with or without added solids. Increasing minimum standards will only serve to reduce the range of milk products available to consumers.

I firmly believe American consumers, not Congress should determine the appropriate nonfat solids levels in milk. Particularly, since no research or analysis has even been conducted on consumer preferences. Perhaps Congress should at least study potential impacts before mandating such a change.

I stand ready to work with other Agriculture Committee members and the Administration to develop sound, fair legislation on dairy.

ADDITIONAL VIEWS OF SENATOR JOHN SEYMOUR

I am very concerned about the linkage of both dairy and disaster legislation in the Committee passed bill. As many know, California suffered from a terribly destructive freeze last year which destroyed much of the Navel and Valencia orange crop, as well as other commodities in my State. This has been compounded by five years of drought, which continues to plague California. I also recognize, however, that dairy producers have struck upon hard times. While my concern for assisting both dairy producers and farmers suffering from freeze damage is obvious, I question whether this linkage is helpful to anyone.

Regarding dairy legislation, I strongly support the California standard for fluid milk identity. California has had these standards since the 1960's and they have worked well. These standards have been highly beneficial to California consumers of dairy products by offering them a more nutritious product than under the Federal dairy standards. I would urge the Senate to recognize the benefits these standards offer to consumers and producers alike, and to consider their adoption into any final dairy legislation.

JOHN SEYMOUR.

ADDITIONAL VIEWS OF SENATOR GRASSLEY

I applaud the Senate Agriculture Committee's action with regard to the passage of disaster relief legislation for farmers. Before passage of this bill I was prepared to offer an amendment which would allow farmers to hay and graze set-aside land at the same rate per animal unit as that set for grazing of public land by the Bureau of Land Management. While I believe this amendment is the correct thing to do from a policy standpoint, in the interest of comity, I did not offer it for consideration.

I strongly believe the present system of releasing set-aside acres for haying and grazing in distressed areas works well for no one. The value of the forage by the time it is finally released is greatly diminished and farmers become frustrated by the delays in utilizing this resource. As an alternative, many producers have made it clear that a bid back program would be much more workable. Farmers would be able to individually decide whether to use their set-aside. They would also experience fewer disappointments with the federal government. Such a system would also make it possible to respond to smaller scale disasters.

I believe that as a practical matter, the amount of forage that would be produced on land utilized for haying and grazing under a bid back system would be virtually equal to the amount of forage produced under the existing process. The difference is, this bid back would likely result in government revenues and fewer headaches as emergency appeals are reduced.

This amendment simply is an opportunity for the committee to encourage effective land use and farmer-specific flexibility. A bid back for set-aside haying and grazing would be cost effective and would benefit farmers who need help. It would transfer decision making control from Washington, D.C., back to farmers, who can use it most efficiently.

While I did not ask to attach this amendment to this legislative vehicle, I would hope that time will permit appropriate consideration of this concept in the future.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill H.R. 2893 as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no federal change is proposed is shown in roman).

AGRICULTURAL ACT OF 1949

TITLE I—DAIRY PRICE SUPPORT AND STABILIZATION PROGRAM

* * * * * * *

TITLE II—DESIGNATED NONBASIC AGRICULTURAL COMMODITIES

[Price Support Levels for Designated Nonbasic Agricultural Commodities]

SEC. 201. * * *

* * * * * * *

SEC. 204. MILK PRICE SUPPORT AND MILK INVENTORY MANAGEMENT PROGRAM FOR CALENDAR YEARS 1991 THROUGH 1995.

Notwithstanding any other provision of law:

(a) IN GENERAL.—During the period beginning on January 1, 1991, and ending on December 31, 1995, the price of milk shall be supported as provided in this section.

[(b) RATE.—During the period beginning on January 1, 1991, and ending on December 31, 1995, the price of milk shall be supported at a rate not less than $10.10 per hundredweight for milk containing 3.67 percent milkfat.]

(b) RATE.—

(1) 1991.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the price of milk shall be supported at a rate of not less than $10.10 per hundredweight for milk containing 3.67 percent milkfat.

(2) 1992 through 1995.—

(A) IN GENERAL.—During the period beginning on January 1, 1992, and ending on December 31, 1995, the price of milk shall be supported at a rate of not less than $11.10 per hundredweight for milk containing 3.67 percent milkfat.

(B) ADJUSTMENT FOR PROGRAM OPERATION.—Notwithstanding any other provision of law, if net removals by the Commodity Credit Corporation exceed 5 billion pounds of

milk and products of milk (milk equivalent, total milk solids basis) for any year, the Secretary shall support the price in the immediately subsequent year at a rate of not less than $12.10 per hundredweight for milk containing 3.67 milkfat.

(c) PURCHASES.—

(1) IN GENERAL.—The price of milk shall be supported through the purchase of milk and the products of milk.

(2) CCC BID PRICES.—The Commodity Credit Corporation support purchase prices under this section for each of the products of milk (butter, cheese, and nonfat dry milk) announced by the Corporation shall be the same for all of that product sold by persons offering to sell the product to the Corporation. The purchase prices shall be sufficient to enable plants of average efficiency to pay producers, on average, a price not less than the rate of price support for milk in effect during a 12-month period under this subsection.

[(3) BUTTER AND NONFAT DRY MILK.—

[(A) ALLOCATION OF PURCHASE PRICES.—The Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that will result in the lowest level of expenditures by the Commodity Credit Corporation or achieve such other objectives as the Secretary considers appropriate. The Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the allocation.

[(B) TIMING OF PURCHASE PRICE ADJUSTMENTS.—The Secretary may make any such adjustments in the purchase prices for nonfat dry milk and butter the Secretary considers to be necessary not more than twice in each calendar year.]

(3) BUTTER AND NONFAT DRY MILK.—

(A) ESTABLISHED PURCHASE PRICES.—

(i) 1992.—In calendar year 1992, the Secretary shall establish the purchase price for butter at not more than $0.9425 per pound, and the purchase price for nonprofit dry milk at not less than $0.995 per pound.

(ii) 1993 through 1995.—In each of the calendar years 1992 through 1995, the Secretary shall establish the purchase price for butter and nonfat dry milk as the Secretary determines to be appropriate.

(B) NOTIFICATION.—If the Secretary determines that the rate of price support between the purchase prices for nonfat dry milk and butter should be allocated in a manner that does not result in the lowest level of expenditures by the Commodity Credit Corporation, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the alternative allocation and the justification for the alternative allocation.

(c) TIMING OF PURCHASE PRICE ADJUSTMENT.—The Secretary may make adjustments in the purchase prices for

nonfat dry milk and butter the Secretary considers to be necessary not more than twice in each calendar year.

(d) SUPPORT RATE ADJUSTMENTS.—

(1) REDUCTIONS.—

(A) IN GENERAL.—Effective January 1 of each of the calendar years 1991 through 1995, if the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section (less sales under section 407 for unrestricted use), as estimated by the Secretary by November 20 of the preceding calendar year, will exceed 5 billion pounds (milk equivalent, total milk solids basis), the Secretary shall decrease by an amount per hundredweight of at least $0.25 but not more than $0.50 the rate of price support for milk in effect for the calendar year.

(B) PRIOR NOTIFICATION.—The Secretary shall, by November 20 of the preceding calendar year, notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of any proposed decrease in price support under this paragraph.

(2) INCREASES.—

(A) IN GENERAL.—Effective January 1 of each of the calendar years 1991 through 1995, if the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section (less sales under section 407 for unrestricted use), as estimated by the Secretary by November 20 of the preceding calendar year, will not exceed 3.5 billion pounds (milk equivalent, total milk solids basis), the Secretary shall increase by an amount per hundredweight of at least $0.25 the rate of price support for milk in effect for the calendar year.

(B) PRIOR NOTIFICATION.—The Secretary shall, by November 20 of the preceding calendar year, notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of any proposed increase in price support under this paragraph.

(3) NO ADJUSTMENTS.—If for any of the calendar years 1992 through 1995, the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section (less sales under section 407 for unrestricted use), as estimated by the Secretary by November 20 of the preceding calendar year, will be less than 5 billion pounds (milk equivalent, total milk solids basis), but more than 3.5 billion pounds (milk equivalent, total milk solids basis), the Secretary shall not decrease the rate of price support for milk in effect for the calendar year.

(4) MINIMUM PRICE.—Notwithstanding any other provision of this section, in no event shall the price of milk be supported at less than $10.10 per hundredweight.

[(5) ADMINISTRATION.—

[(A) MILK EQUIVALENT, TOTAL MILK SOLIDS BASIS.—As used in this section, the term "milk equivalent, total milk

solids basis", of milk and the products of milk purchased by the Commodity Credit Corporation, shall be equal to the weighted-average of the milk equivalent (as computed on a milkfat basis and on a milk solids nonfat basis) of such products, with weighting factors equal to not more than 40 percent for the milk equivalent, milkfat basis, and not more than 70 percent for the milk equivalent, solids nonfat basis. The weighting factors shall total 100 percent.

[(B) LEVEL OF PURCHASES.—In estimating]

(5) *ADMINISTRATION.—In estimating* the level of purchases of milk and the products of milk under this section, the Secretary shall deduct the amount, if any, by which the level of imports into the United States of milk and the products of milk during the most recent calendar year exceeds the annual average level of imports into the United States of milk and the products of milk during the period January 1, 1986, through December 31, 1990 (milk equivalent, total milk solids basis).

[(e) REPORT ON MILK INVENTORY MANAGEMENT PROGRAM.—

(1) IN GENERAL.—Not later than August 1, 1991, the Secretary shall prepare and submit a report and recommendations on various milk inventory management programs to the Committee on Agriculture of the House of Representatives and Committee on Agriculture, Nutrition, and Forestry of the Senate.

[(2) SOLICITATION OF PROPOSALS.—Within 60 days after the date of enactment of this section, the Secretary shall publish in the Federal Register a notice to solicit proposals concerning a milk inventory management program.

[(3) REQUIRED PROPOSALS.—In carrying out this subsection, the Secretary shall study, among other proposals—

[(A) an alternative classification of milk contained in section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), as amended by the Agricultural Marketing Agreement Act of 1937;

[(B) a program to support the income of milk producers through a system of established prices and deficiency payments; and

[(C) other such programs submitted to the Secretary under paragraph (2) as the Secretary may determine appropriate after consultation with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

[(4) PROHIBITED PROGRAMS.—In the study required under paragraph (3), the Secretary shall not consider any milk inventory management program that includes any milk production termination program that is similar to the program established under section 201(d)(3), or support price reductions below the levels established under this section.

[(5) CRITERIA FOR EVALUATION.—The Secretary shall evaluate the proposals for a milk inventory management program based on—

[(A) the ability of the program to limit Government purchases of milk products to 6,000,000,000 pounds (milk equivalent, total milk solids basis) in a calendar year;

[(B) the speed and effectiveness of reducing excess milk production;

[(C) the effectiveness in sustaining reduced milk production for at least a 5-year period with and without the continuation of the program;

[(D) the regional impact of milk prices, producer revenue,and milk supplies;

[(E) the impact on national producer income and Government expenditures;

[(F) the impact on the rural economy and maintaining family farms;

[(G) the impact on the availability of wholesome dairy products for domestic and foreign nutrition and food assistance programs;

[(H) technological innovations;

[(I) the effectiveness in reducing butter fat production and increasing protein content in milk;

[(J) the impact of temporary increases and decreases of milk production;

[(K) the impact on the United States livestock industry; and

[(L) all other issues the Secretary considers appropriate.

[(6) NOTICE AND COMMENT.—The Secretary shall provide for public notice and comment on the milk inventory programs studied by the Secretary under this subsection no later than June 1, 1991.]

(e) RESOURCE LOANS FOR PROCESSED MILK PRODUCTS.—

(1) IN GENERAL.—Beginning on January 1, 1993, if the Secretary determines that operation of a resource loan program will improve the orderly marketing of dairy products and the stability of dairy product prices, the Secretary may make available to processors of milk a recourse loan on products of milk (butter, cheese, and nonfat dry milk).

(2) RATE.—The Secretary shall offer loans on the products at a rate that will enable plants of average efficiency to pay producers, on average, a price that is at least 95 percent but not more than 100 percent of the simple average price received by producers for manufacturing grade milk containing 3.67 percent milkfat for the immediately preceding 5 years, excluding the year in which the average price was the highest and the year in which the average price was the lowest.

(3) TERMS.—Loans shall be made under this section only in the first 5 months of the calendar year and shall mature at the earlier of—

(A) the end of 6 months; or

(B) the end of the fiscal year.

(4) ASSESSMENT.—

(A) IN GENERAL.—No later than December 1, 1992, the Secretary shall assess the extent to which the operation of a recourse loan program, made available to the processors of the products of milk, will improve the performance and functioning of dairy markets.

(B) EFFECT ON ORDERLY MARKETING.—The Secretary shall consider the extent to which the operation of a re-

course loan program will improve the orderly marketing of dairy products and the stability of dairy product prices within a marketing year.

(C) CONSULTATION.—In conducting the assessment and as soon as possible after the assessment is completed, the Secretary shall consult with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate and, as determined by the Secretary, appropriate representatives from the dairy industry.

(f) NOTIFICATION OF CONGRESS CONCERNING ESTIMATED PURCHASES.—On August 1 and by November 20 of each of the calendar years 1991 through 1995, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate regarding the value and volume of dairy product purchases on a milk equivalent, total milk solids basis, the Secretary estimates that the Corporation will make during the upcoming calendar year.

[(g) EXCESS PURCHASES.—

[(1) IN GENERAL.—In order to offset any cost to the Commodity Credit Corporation associated with the purchase of milk and the products of milk in excess of 7,000,000,000 pounds (milk equivalent, total milk solids basis), during any of the calendar years 1992 through 1995, the Secretary shall, if necessary, provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use.

[(2) CALCULATION.—If on November 20 of each of the calendar years 1991 through 1994, the Secretary estimates that the level of Commodity Credit Corporation purchases in the following calendar year of milk and the products of milk will exceed 7,000,000,000 pounds (milk equivalent, total milk solids basis), the amount of reduction in the price received by producers in such following calendar year shall be an amount per hundredweight calculated by dividing—

[(A) the cost of the purchases in excess of 7,000,000,000 pounds, milk equivalent, total milk solids basis; by

[(B) the total quantity of hundredweights of milk the Secretary estimates will be produced and marketed in the United States for commercial use in such following calendar year.

[(3) ADJUSTMENTS—The Secretary shall adjust any such assessment in future years, or refund any portion of such assessments, as needed, to carry out the purposes of this subsection.]

(g) SURPLUS REDUCTION AND PREVENTION PROGRAM.—

(1) IN GENERAL.—The Secretary shall enter into contracts in each of the 1992 through 1995 calendar years with producers in the United States to reduce the marketings of milk for commercial use to ensure that annual net removals by the Commodity Credit Corporation do not exceed 4.5 billion pounds (milk equivalent, total milk solids basis).

(2) NATIONAL REDUCTION IN MILK MARKETINGS.—

(A) ANNUAL DETERMINATION.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine the national reduction in milk marketings necessary in the following calendar year to limit net removals by the Commodity Credit Corporation in the year to a level of not more than 4.5 billion pounds (milk equivalent, total milk solids basis).

(B) CRITERIA.—In making the reduction determination required under subparagraph (A), the Secretary shall—

(i) use the rate of price support that will be effective for the calendar year subsequent to the year in which the determination is made under this section; and

(ii) assume there will be no new entrants during that calendar year in the surplus reduction and prevention program established under this subsection.

(3) REGIONAL REDUCTION IN MILK MARKETINGS.—

(A) IN GENERAL.—The Secretary shall ensure that participation in the surplus reduction and prevention program shall be proportionately distributed, based on the quantity of milk produced, among the regions identified in subparagraph (B).

(B) DEFINITION OF REGIONS.—For purposes of this subsection, the United States shall be divided into seven geographic regions as follows:

(i) California, Oregon, and Washington.

(ii) Arizona, Arkansas, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Texas, Utah, and Wyoming.

(iii) Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

(iv) Wisconsin.

(v) Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

(vi) Delaware, Indiana, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, and West Virginia.

(vii) Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

(C) REGIONAL MARKETING PERCENTAGE.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine a regional marketing percentage for each region that is equal to the ratio of—

(i) the total quantity of milk marketed in the region in the 12 months prior to the determination; to

(ii) the total quantity of milk marketed in the United States in the 12 months prior to the determination.

(D) REGIONAL ALLOCATION.—To the extent practicable (taking into consideration the regional supply and demand for fluid milk), the Secretary shall determine the total reduction in the quantity of milk marketed for a region under the surplus reduction and prevention program to be equal to the product obtained by multiplying—

(i) the national reduction in milk marketings, as determined under paragraph (2); by

(ii) the regional marketing percentage for that region, as determined under subparagraph (C).

(4) SURPLUS REDUCTION CONTRACTS.—

(A) IN GENERAL.—Beginning on January 1, 1992, the Secretary shall provide cash payments from the commodity Credit Corporation to producers who enter into surplus reduction contracts to reduce the quantity of milk the producers market for commercial use during the relevant time period.

(B) RATE OF PAYMENTS.—In determining the amount to be paid to producers under the contracts, the Secretary may offer payments to, or accept bids from, producers at a level that is necessary to achieve the national and regional reductions in milk marketings required under this subsection.

(C) PERIOD OF CONTRACT.—In those cases in which contracts are entered into, the Secretary shall offer to enter into contracts in which a participant shall reduce the quantity of milk marketed by the participant over a period of 24 to 36 months, as determined by the Secretary. The Secretary may offer contracts for a shorter period to permit the dairy industry to adjust to unforeseen changes in factors affecting milk production, prices, and the demand for milk products, as determined by the Secretary. In no case shall contracts be for a period of less than 12 months.

(D) ANNUAL LEVEL OF REDUCTION.—For each year of a contract, the level of reduction in the quantity of milk marketed shall be equal to the product obtained by multiplying—

(i) not less than 5 percent, nor more than 30 percent; by

(ii) the producer's relevant milk marketing history for that contract year, as determined pursuant to subparagraph (E).

(E) MILK MARKETING HISTORY.—For purposes of surplus reduction contracts entered into under this subsection, a producer's milk marketing history shall be equal to—

(i) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1992, the quantity of milk marketed by a producer during 1991;

(ii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1993, the average quantity of milk that is marketed and considered marketed by the producer during 1991 and 1992; and

(iii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1994 or 1995, the average quantity of milk that is marketed and considered marketed by the producer during the previous 3 years.

(F) ENROLLMENT PERIOD.—

(i) FREQUENCY OF ENROLLMENT PERIODS.—The Secretary shall offer to enter into surplus reduction contracts on at least three occasions during 1992, and on

as many occasions during 1993 through 1995 as the Secretary determines necessary.

(ii) INITIAL PERIOD.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as determined by the Secretary.

(G) PAYMENTS TO PARTICIPANTS.—

(i) TIMING.—The Secretary shall make conditional whole or partial payments to participants in the surplus reduction program on at least a quarterly basis, or more frequently at the option of the Secretary.

(ii) ANNUAL SETTLEMENT PAYMENT.—If necessary, the Secretary shall make an annual settlement payment at the end of each year of the contract period, based on the total reduction in the quantity of milk marketings by the producer during the year.

(iii) REDUCTION IN PRICE RECEIVED.—Any producer that participates in the surplus reduction program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

(H) FUNDING.—The Secretary shall make payments to participants in the surplus reduction program from funds of the Commodity Credit Corporation.

(I) SEASONAL STABILITY.—The Secretary shall, to the maximum extent practicable and consistent with the other obligations and objectives of this section, administer the surplus reduction program in a manner that will reduce the seasonal fluctuation in the supply of milk produced in the United States.

(J) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus reduction program are met, as determined by the Secretary.

(5) SURPLUS PREVENTION CONTRACTS.—

(A) IN GENERAL.—Beginning on January 1, 1992, the Secretary shall offer to enter into contracts with producers not to increase the level of their marketings of milk from the immediately preceding year, as determined in subparagraph (D).

(B) REDUCTION IN PRICE RECEIVED.—Any producer that participates in the surplus prevention program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

(C) PERIOD OF CONTRACT.—The Secretary shall offer to enter into contracts in which a participant shall agree not to exceed the quantity of milk marketed by the participant over a period of 12 months.

(D) ANNUAL LEVEL OF MARKETINGS.—For each year of a surplus prevention contract, the level of milk marketed by the participant shall not exceed the quantity of milk mar-

keted and considered marketed in the year immediately preceding the term of the contract.

(E) ENROLLMENT PERIOD.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as determined by the Secretary.

(F) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus prevention program are met, as determined by the Secretary.

(6) CONSIDERED MARKETED.—For purposes of calculating a marketing history under paragraphs (4) and (5), the producer may receive an allowance for amounts considered marketed in previous years only to the extent that for a year the producer enters into a contract under paragraph (4). The quantity of milk considered marketed for the year shall equal the quantity of contracted reduction for the year, except that there shall be no allowance made under this paragraph for quantities considered marketed if the quantity actually marketed in the year exceeded the quantity permitted by the year's contract.

(7) RECORDS.—

(A) MARKETING HISTORY.—Any producer of milk who seeks to enter into a contract for payments under this subsection shall provide the Secretary with evidence of the quantity of milk marketed by the producer in previous years to establish the producer's marketing history, as the Secretary considers necessary and appropriate.

(B) OTHER RECORDS AND REPORTS.—Each producer who enters into a contract with the Secretary to reduce marketings under this subsection shall keep such records and make such reports as the Secretary determines necessary to carry out this subsection.

(8) MODIFICATION OF CONTRACTS.—

(A) AUTHORITY.—Subject to subparagraph (B), the Secretary may, in accordance with such rules or procedures as are prescribed by the Secretary, offer to modify contracts entered into under this subsection.

(B) DETERMINATION.—Prior to a modification under subparagraph (A), the Secretary shall determine that, in the absence of the modification, net removals by the Commodity Credit Corporation would fall excessively below 4.5 billion pounds (milk equivalent, total milk solid basis) during the year.

(9) ASSIGNMENT OF CONTRACTS.—A producer may, with the approval of the Secretary, assign a contract entered into under this paragraph only if—

(A) the producer's interest in the entire milk production facility and the entire dairy herd used by the producer to produce milk for commercial marketings have been transferred as a unit to the person to whom the assignment is to be made;

(B) the producer and the assignee agree in writing that the assignee shall succeed to all rights and liabilities of the producer under the contract; and

(C) a copy of the writing is submitted to the Secretary before the transfer occurs.

(10) DECEASED PRODUCERS.—A contract entered into under this subsection by a producer who by reason of death cannot perform or assign the contract may be performed or assigned, in accordance with paragraph (9), by the estate of the producer.

(11) COMPLIANCE.—

(A) IN GENERAL.—The Secretary shall ensure compliance by producers with the contracted level of reductions in the quantity of milk marketed, including contracts for a term in excess of 1 year. The Secretary shall ensure compliance with surplus reduction contracts on at least a quarterly basis, consistent with payments to producers under paragraph (4)(G)(i).

(B) INITIAL ENROLLMENT.—During the initial enrollment period specified in paragraph (4)(F), the Secretary shall, at the option of the participant, not require full compliance with the terms and conditions of the surplus reduction contract until 45 days after entering into the contract. Full compliance with the terms and conditions of the contract shall be required on a quarterly basis, as provided in this paragraph.

(C) VIOLATIONS OF SURPLUS REDUCTION CONTRACTS.—

(i) REFUNDS.—If a producer violates a contract entered into under paragraph (4), the Secretary shall, as considered appropriate, require that all payments made under the contract be refunded by the producer, with interest at the rate equal, to the extent practicable, to the cost to the Commodity Credit Corporation of its borrowings from the United States Treasury for the relevant time period. The refund shall not relieve the producer from the obligations of the contract.

(ii) PENALTIES.—A producer who enters into a contract under paragraph (4) shall be liable to the Secretary for marketing penalties, in addition to other remedies available under this section, if the producer—

(I) fails to make a required reduction in milk marketings;

(II) retains or acquires an interest in dairy cattle or the production of milk in violation of a contract entered into under this subsection;

(III) makes a false statement in a bid submitted under paragraph (4) as to the producer's milk marketing history;

(IV) makes a false statement as to the producer's reduction in milk marketings required under the contract; or

(V) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

(iii) LEVEL OF PENALTIES.—The amount of a marketing penalty shall be an amount determined by the Secretary that is the higher of—

(I) $5,000 for the violation; or

(II) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

(iv) EXCEPTION.—The Secretary may waive penalties under clause (iii) for a violation that is the result of inadvertent errors in reduction of marketings, as determined by the Secretary, except that the amount of a waiver may not exceed 5 percent of the quantity of the reduction in annual milk marketings by the producer provided for under the contract.

(D) VIOLATIONS OF SURPLUS PREVENTION CONTRACTS.—

(i) PENALTY.—If a producer violates a contract entered into under paragraph (5), the Secretary shall, as considered appropriate, require that the producer pay a penalty to the Commodity Credit Corporation for the relevant time period.

(ii) VIOLATION.—The Secretary shall find a producer in violation of a contract if the producer—

(I) exceeds the level of milk marketings provided in the contract;

(II) makes a false statement as to the producer's level of milk marketings required under the contract; or

(III) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

(iii) LEVEL OF PENALTY.—The level of the penalty authorized under clause (i) shall equal the sum of—

(I) the product obtained by multiplying—

(aa) the amount of the reductions in price received by the producer that would have applied under subsection (h) had that producer not participated in the surplus prevention program during the year; by

(bb) the total quantity of milk marketed by the producer in that year; and

(II) an amount determined by the Secretary that is the higher of—

(aa) $5,000 for the violation; or

(bb) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

(iv) EXCEPTION.—The Secretary may reduce any penalties under clause (iii)(II) by such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

(12) EFFECT ON THE LIVESTOCK INDUSTRY.—In order to minimize the adverse effect of the surplus reduction program on

beef, pork, and poultry producers in the United States, the Secretary shall vary the beginning and ending dates of surplus reduction contracts in a region so that the slaughter of dairy animals as a result of the surplus reduction program will occur on a random basis.

(13) USE OF GOVERNMENT RESOURCES.—In carrying out this subsection, the Secretary may, as the Secretary considers appropriate—

(A) use the services of State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

(B) enter into agreements to use, on a reimbursable basis, the services of administrators of the Federal milk marketing orders and State milk marketing programs.

[(h) REDUCTION IN PRICE RECEIVED.—

[(1) IN GENERAL.—Beginning January 1, 1991, the Secretary shall provide for a reduction in the price received by producers for all milk produced in the United States and marketed by producers for commercial use, in addition to any reduction price required under subsection (g).

[(2) AMOUNT.—The amount of the reduction under paragraph (1) in the price received by producers shall be—

[(A) during calendar year 1991, 5 cents per hundredweight of milk marketed; and

[(B) during each of the calendar years 1992 through 1995, 11.25 cents per hundredweight of milk marketed, which rate shall be adjusted on or before May 1 of each of the calendar years 1992 through 1995 by an amount per hundredweight that is necessary to compensate for refunds made under paragraph (3) on the basis of marketings in the previous calendar year.

[(3) REFUND.—The Secretary shall provide a refund of the entire reduction under paragraph (2) in the price of milk received by a producer during a calendar year, if the producer provides evidence that the producer did not increase marketings in the calendar year that such reduction was in effect when compared to the immediately preceding calendar year.]

(h) REDUCTION IN PRICE RECEIVED.—

(1) SURPLUS REDUCTION CONTRACTS.—

(A) IN GENERAL.—During the period beginning on January 1, 1992, and ending on December 31, 1998, the Secretary shall provide for a reduction in the price received on all milk marketed in the United States for commercial purposes by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g).

(B) RATE OF REDUCTION.—

(i) 1992.—During calendar year 1992, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount that is not more than $0.56 per hunderdweight of milk marketed.

(ii) 1993.—During calendar year 1993, the Secretary shall establish the rate of the reduction under subpara-

graph (A) in the price received by producers at an amount that is equal to the sum of—

(I) the amount that is necessary to reimburse the Commodity Credit Corporation for all payments to producers who participate in the surplus reduction program under subsection (g)(4) in 1993; and

(II) the amount, in excess of the funds collected under clause (i), that is necessary to reimburse the Commodity Credit Corporation for payments to producers who participated in the surplus reduction program under subsection (g)(4) in 1992.

(iii) 1994 through 1998.—During each of the calendar years 1994 through 1998, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers in an amount that is equal to the amount that is necessary to reimburse the Commodity Credit Corporation for all payments to producers who participate in the surplus reduction program under subsection (g)(4) in the corresponding year.

(2) RECONCILIATION COMMITMENTS.—

(A) 1991.—

(i) AUTHORITY.—During the period beginning January 1, 1991, and ending on December 31, 1991, the Secretary shall provide for a reduction in the price received by producers for all milk produced in the United States and marketed the producers for commercial use, in addition to any reduction in price required under paragraph (1).

(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be 5 cents per hundredweight of milk marketed.

(iii) REFUND.—The Secretary shall provide a refund of the entire reduction under clause (ii) in the price of milk received by a producer during a calendar year if the producer provides evidence that the producer did not increase marketings in 1991 as compared to marketings by the producer in 1990.

(B) 1992.—

(i) AUTHORITY.—During the period beginning on May 1, 1992, and ending on December 31, 1992, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, that is sufficient to compensate for refunds made under subparagraph (A)(iii) on the basis of marketings in 1991.

(C) 1993 through 1995.—

(i) AUTHORITY.—During the period beginning on January 1, 1993, and ending on December 31, 1995, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal—

(I) $7,000,000 during calendar year 1993;

(II) $40,000,000 during calendar year 1994; and

(III) $80,000,000 during calendar year 1995.

(3) COLLECTION OF FUNDS.—The funds resulting from the application of any reduction in the price received by producers for milk under paragraph (1) shall be collected and remitted to the commodity Credit Corporation at such time and in such manner as are prescribed by the Secretary. The funds shall be remitted by any person that purchases milk from a producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, or other cases as determined by the Secretary, the funds shall be remitted directly to the Corporation by the producer.

(4) MINIMUM PRICE PROVISIONS.—The funds remitted to the Corporation under this subparagraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(i) ENFORCEMENT.—

(1) COLLECTION.—Reductions in price required under [subsection (g) or (h)] *subsection (h)* shall be collected and remitted to the Commodity Credit Corporation in the manner prescribed by the Secretary.

(2) PENALTIES.—If any person fails to collect or remit the reduction required by [subsection (g) or (h)] *subsection (h)* or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out such subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of milk involved in the violation; by

(B) the support rate for the applicable calendar year for milk.

(3) ENFORCEMENT.—The Secretary may enforce [subsection (g) or (h)] *subsection (h) in the courts of the United States.*

(j) DEFINITIONS.—As used in this section:

(1) MILK EQUIVALENT, TOTAL MILK SOLIDS BASIS.—The term "milk equivalent, total milk solids basis", of milk and the products of milk purchased by the Commodity Credit Corporation, shall be equal to the weighted-average of the milk equiva-

lent (as computed on a milkfat basis and on a milk solids nonfat basis) of such products, with weighting factors equal to not more than 40 percent for the milk equivalent, milkfat basis, and not more than 70 percent of the milk equivalent, solids nonfat basis. The weighting factors shall total 100 percent.

(2) NET REMOVALS.—The term "net removals" means the level of purchases of milk and the products of milk by the commodity Credit corporation under this section, less sales under section 407 for unrestricted use.

(3) UNITED STATES.—The term "United States" means the 48 contiguous States in the continental United States.

[(j)] *(k)* USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

[(k)] *(l)* PERIOD.—Notwithstanding any other provision of law, this section, *other than as provided in subsection (h)(1),* shall be effective only during the period beginning on January 1, 1991, and ending on December 31, 1995.

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FOOD SECURITY ACT OF 1985

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TITLE XI—TRADE

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Subtitle E—Trade Practices

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EXPORT SALES OF DAIRY PRODUCTS

SEC. 1163. (a) In each of the fiscal years 1986 through 1995, the Secretary of Agriculture shall sell for export, at such prices as the Secretary determines appropriate, not less than 150,000 metric tons of dairy products owned by the Commodity Credit Corporation, of which not less than 1,000,000 metric tons shall be butter and not less than 20,000 metric tons shall be cheese, if that disposition of such commodities will not interfere with the usual marketings of the United States nor disrupt world prices of agricultural commodities, and normal patterns of commercial trade.

(b) During calendar year 1991, the Secretary shall sell for export to the Union of Soviet Socialist Republics and its former constituent republics, at such prices as the Secretary determines appropriate, not less than 250,000,000 pounds of dairy products owned by the Commodity Credit Corporation, of which not less than 175,000,000 pounds shall be nonfat dry milk and not less than 55,000,000 pounds shall be butter.

[(b)] *(c)* Such sales shall be made through the Commodity Credit Corporation under existing authority available to the Secretary or the Commodity Credit Corporation.

[(c)] *(d)* Through September 30, 1995, the secretary shall report semiannually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the volume of sales made under this section.

AGRICLTURAL ADJUSTMENT ACT REENACTED WITH AMENDMENTS BY THE AGRICULTURAL MARKETING AGREEMENT ACT OF 1937

* * * * * * *

SEC. 8c(1) * * *
(2) * * *
(3) * * *
(4) * * *

(5) MILK AND ITS PRODUCTS; TERMS AND CONDITIONS OF ORDERS.—In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7) of this section) no others:

(A) * * *
(B) * * *

* * * * * * *

(G) [No] *Except as provided for in paragraph (H), no* marketing agreement or order applicable to milk and its products in any marketing areas shall prohibit or in any manner limit, in the case of the products of milk, the marketing in that area of any milk or product thereof produced in any production area in the United States.

[(H) Marketing orders applicable to milk and its products may be limited in application to milk used for manufacturing.]

(H) Beginning on January 1, 1994, an order issued pursuant to this section shall contain terms and conditions that require handlers of fluid milk, subject to the order, to market as the highest class milk for fluid use in the geographic area covered by the order only milk that meets the following requirements:

(i) Milk marketed as whole milk shall contain not less than 12 percent total milk solids consisting of not less than—

(I) 8.7 percent milk solids not fat; and
(II) 3.25 percent milk fat.

(ii) Milk marketed as low fat milk shall contain not less than 12 percent total milk solids consisting of not less than—

(I) 10 percent milk solids not fat; and
(II) 2 percent milk fat.

(iii) Milk marketed as light milk shall contain not less than 12 percent total milk solids consisting of not less than—

(I) 11 percent milk solids not fat; and
(II) 1 percent milk fat.

(iv) Milk marketed as skim milk shall contain not less than 9 percent total milk solids consisting of—

(I) not less than 9 percent milk solids not fat; and
(II) not more than 0.25 percent milk fat.
The Federal Milk Market Order Administrators shall test milk sold at the retail level in the geographic area covered by the order to ensure compliance with this paragraph. Violations of this paragraph shall be subject to the penalties provided in subsection (14).

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FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990

TITLE II—EMERGENCY CROP LOSS ASSISTANCE

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TITLE XXII—CROP INSURANCE AND DISASTER ASSISTANCE

Subtitle A—Crop Insurance

Sec. 2201. Submission of social security account numbers and employer identification numbers.
Sec. 2202. Penalties for willful provision of false or inaccurate information.
Sec. 2203. Uniform claims adjustment and reinsurance agreements.
Sec. 2204. Review of policies, ensuring actuarial soundness, and information collection.
Sec. 2205. ASCS yields and dollar-denominated coverage.
Sec. 2206. Contracting with private companies.

Subtitle B—Disaster Assistance

CHAPTER 1—1989 CROP CLARIFICATION

Sec. 2231. Sugarcane disaster assistance.
Sec. 2232. Valencia oranges.

CHAPTER 2—OTHER ASSISTANCE

Sec. 2235. Amendments to the Disaster Assistance Act of 1989.
Sec. 2236. Sugarcane.

CHAPTER 3—EMERGENCY CROP LOSS ASSISTANCE

SUBCHAPTER A—ANNUAL CROPS

Sec. 2240. Short title.
Sec. 2241. Payments to program participants for target price commodities.
[Sec. 2242. Payments to program nonparticipants for target price commodities.]
Sec. 2242. Payments to program nonparticipants.
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TITLE XXII—CROP INSURANCE AND DISASTER ASSISTANCE

[CHAPTER 3—EMERGENCY CROP LOSS ASSISTANCE

[Subchapter A—Annual Crops

[SEC. 2241. PAYMENTS TO PROGRAM PARTICIPANTS FOR TARGET PRICE COMMODITIES.

[(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—Effective only for producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, except as otherwise provided in this subsection, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1989 or 1990, the total quantity of the 1990 crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 60 percent (or, in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act (7 U.S.C.

1501 et seq.), 65 percent) of the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of a natural disaster, as determined by the Secretary) for such crop, the Secretary shall make a disaster payment available to such producers at a rate equal to 65 percent of the established price for the crop for any deficiency in production greater than 40 percent (or, in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act, 35 percent) for the crop.

[(2) LIMITATIONS.—

[(A) ACREAGE IN EXCESS OF PERMITTED ACREAGE.—Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm with respect to any acreage in excess of the permitted acreage for the farm for the commodity.

[(B) CROP INSURANCE.—Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm unless such producers enter into an agreement to obtain mulitperil crop insurance, to the extent required under section 2247.

[(3) REDUCTION IN DEFICIENCY PAYMENTS.—The total quantity of a crop of a commodity on which deficiency payments otherwise would be payable to producers on a farm under the Agricultural Act of 1949 shall be reduced by the quantity on which a payment is made to the producers for the crop under paragraph (1).

[(4) ELECTION OF PAYMENTS.—

[(A) APPLICATION OF PARAGRAPH.—This paragraph shall apply, effective only for the 1990 crops of wheat, feed grains, upland cotton, and rice, to producers on a farm who—

[(i) had failed wheat, feed grain, upland cotton, or rice acreage; or

[(ii) were prevented from planting acreage to such commodity because of damaging weather or related condition in 1989 or 1990.

[(B) ELECTION.—The Secretary of Agriculture shall (within 30 days after the date of enactment of this Act) permit producers referred to in subparagraph (A) to elect whether to receive disaster payments in accordance with this section in lieu of payments received under the Agricultural Act of 1949.

[(b) ADVANCE DEFICIENCY PAYMENTS.—

[(1) APPLICATION OF SUBSECTION.—This subsection shall apply only to producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1990 crop of wheat, feed grains, upland cotton, or rice.

[(2) FORGIVENESS OF REFUND REQUIREMENT.—

[(A) IN GENERAL.—Subject to subparagraph (B), if because of damaging weather or related condition in 1989 or 1990 the total quantity of the 1990 crop of the commodity

that the producers are able to harvest on the farm is less than the result of multiplying the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of a natural disaster, as determined by the Secretary) for such crop (hereinafter in this section referred to as the "qualifying amount"), the producers shall not be required to refund any advance deficiency payment made to the producers for such crop under section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b–2) with respect to that portion of the deficiency in production that does not exceed—

[(i) in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act, 35 percent of the qualifying amount; and

[(ii) in the case of other producers, 40 percent of the qualifying amount.

[(B) CROP INSURANCE.—Producers on a farm shall not be eligible for the forgiveness provided for under subparagraph (A), unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 2247.

[(3) ELECTION FOR NONRECIPIENTS.—The Secretary shall allow producers on a farm who elected, prior to the date of enactment of this Act, not to receive advance deficiency payments made available for the 1990 crop under section 107C of the Agricultural Act of 1949, to elect (within 30 days after the date of the enactment of this Act) whether to receive such advance deficiency payments.

[(4) DATE OF REFUND FOR PAYMENTS..—Effective only for the 1990 crops of wheat, feed grains, upland cotton, and rice, if the Secretary determines that any portion of the advance deficiency payment made to producers for the crop under section 107C of the Agricultural Act of 1949 must be refunded, such refund shall not be required prior to July 31, 1991, for that portion of the crop for which a disaster payment is made under subsection (a).

[SEC. 2242. PAYMENTS TO PROGRAM NONPARTICIPANTS FOR TARGET PRICE COMMODITIES.

[(a) DISASTER PAYMENTS.—

[(1) IN GENERAL.—Effective only for producers on a farm who elected not to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, if the Secretary of Agriculture determines that because of damaging weather or related condition in 1989 or 1990, the total quantity of the 1990 crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 40 percent (or in the case of producers who obtained crop insurance, 35 percent) of the county average yield established by the Secretary for such crop by the sum of acreage planted for har-

vest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers.

[(2) PAYMENT RATE.—The payment shall be made to the producers at a rate equal to 65 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 40 percent for the crop (or in the case of producers who obtained crop insurance, 35 percent).

[(b) PREVENTED PLANTING CREDIT.—

[(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1990 crop of the commodity for harvest because of damaging weather or related condition in 1989 or 1990, as determined by the Secretary.

[(2) MAXIMUM ACREAGE.—Such acreage may not exceed the greater of—

[(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1989 minus acreage actually planted to the commodity for harvest in 1990; or

[(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987, 1988, and 1989 minus acreage actually planted to the commodity for harvest in 1990.

[(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers.

[(c) LIMITATIONS.—

[(1) ACREAGE LIMITATION PROGRAM.—The amount of payments made available to producers on a farm for a crop of a commodity under subsection (a) shall be reduced by a factor equivalent to the acreage limitation program percentage established for such crop under the Agriculture Act of 1949.

[(2) CROP INSURANCE.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 2247.

[SEC. 2243. PEANUTS, SUGAR, AND TOBACCO.

[(a) DISASTER PAYMENTS.—

[(1) IN GENERAL.—Effective only for the 1990 crops of peanuts, sugar beets, sugarcane, and tobacco, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1989 or 1990, the total quantity of the 1990 crop of the commodity that the producers on a farm are able to

harvest is less than the result of multiplying 60 percent (or, in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the county average yield (or program yield, in the case of peanuts) established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), Secretary shall make a disaster payment available to such producers.

[(2) PAYMENT RATE.—The payment shall be made to the producers at a rate equal to 65 percent of the applicable payment level under paragraph (3), as determined by the Secretary, for any deficiency in production greater than—

[(A) in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act—

[(i) 35 percent for the crop; or

[(ii) with respect to a crop of burley tobacco or fluecured tobacco, 35 percent of the farm's effective marketing quota for 1990; and

[(B) in the case of producers who did not obtain crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act—

[(i) 40 percent for the crop; or

[(ii) with respect to a crop of burley tobacco or fluecured tobacco, 40 percent of the farm's effective marketing quota for 1990.

[(3) PAYMENT LEVEL.—For purposes of paragraph (1), the payment level for a commodity shall be equal to—

[(A) for peanuts, the price support level for quota peanuts or the price support level for additional peanuts, as applicable;

[(B) for tobacco, the national average loan rate for the type of tobacco involved, or (if there is none) the market price, as determined under section 2244(a)(2); and

[(C) for sugar beets and sugarcane, a level determined by the Secretary to be fair and reasonable in relation to the level of price support established for the 1990 crops of sugar beets and sugarcane, and that, insofar as is practicable, shall reflect no less return to the producer than under the 1990 price support levels.

[(b) PREVENTED PLANTING CREDIT.—

[(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1990 crop of the commodity for harvest because of damaging weather or related condition in 1989 or 1990, as determined by the Secretary.

[(2) MAXIMUM ACREAGE.—Such acreage may not exceed the greater of—

[(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers)

to the commodity for harvest in 1989 minus acreage actually planted to harvest in 1990; or

[(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987, 1988, and 1989 minus acreage actually planted to the commodity for harvest in 1990.

[(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers and any change in quotas for the 1990 crops of tobacco.

[(c) LIMITATION.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 2247.

[(d) SPECIAL RULES FOR PEANUTS.—Notwithstanding any other provision of law—

[(1) a deficiency in production of quota peanuts from a farm, as otherwise determined under this section, shall be reduced by the quantity of peanut poundage quota that was the basis of such anticipated production that has been transferred from the farm;

[(2) payments made under this section shall be made taking into account whether the deficiency for which the deficiency in production is claimed was a deficiency in production of quota or additional peanuts and the payment rate shall be established accordingly; and

[(3) the quantity of undermarketings of quota peanuts from a farm for the 1990 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such peanuts for which payment has been received under this section.

[(e) SPECIAL RULES FOR TOBACCO.—Notwithstanding any other provision of law—

[(1) the quantity of undermarketings of quota tobacco from a farm for the 1990 crop that may otherwise be claimed under section 317 or 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c or 1314e) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such tobacco for which payment has been received under this section; and

[(2) disaster payments made to producers under this section may not be considered by the Secretary in determining the net losses of the Commodity Credit Corporation under section 106A(d) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)).

[(f) SPECIAL RULE FOR SUGARCANE.—For purposes of determining the total quantity of the 1990 crop of sugarcane that the producers on a farm are able to harvest, the Secretary shall make the determination based on the quantity of recoverable sugar.

[SEC. 2244. SOYBEANS AND NONPROGRAM CROPS.

[(a) DISASTER PAYMENTS.—

[(1) IN GENERAL.—

[(A) ELIGIBILITY.—Effective only for the 1990 crops of soybeans and nonprogram crops, to the extent that assistance was not made available under the Disaster Assistance Act of 1989 for a producer's losses, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1989 or 1990, the total quantity of the 1990 crop of the commodity that the producers on a farm are able to harvest is less than—

[(i) with respect to soybeans and sunflowers, the result of multiplying 60 percent (or in the case of producers who obtained crop insurance, if available, for the 1990 crop year of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the State, area, or county yield, adjusted for adverse weather conditions during the 1987, 1988, and 1989 crop years, as determined by the Secretary, for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for such crop under subsection (b);

[(ii) with respect to nonprogram crops (other than as provided in clauses (i) and (iii)), the result of multiplying 60 percent (or in the case of producers who obtained crop insurance, if available, for the 1990 crop year of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the yield established by the Commodity Credit Corporation under subsection (d)(2) for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for such crop under subsection (b); and

[(iii) with respect to crops covered in section 201(b) of the Agricultural Act of 1949 (7 U.S.C. 1446(b)), 60 percent (or in the case of producers who obtained crop insurance, if available, for the 1990 crop year of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the historical annual yield of the producers for such crops, as determined by the Secretary,

the Secretary shall make a disaster payment available to such producers.

[(B) PAYMENT RATE.—The payment shall be made to such producers at a rate equal to 65 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 40 percent for soybeans, sunflowers and for other nonprogram crops for the crop, except that in the case of producers who obtained crop insurance, if available, for the 1990 crop under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 35.

[(2) PAYMENT LEVEL.—For purposes of paragraph (1), the payment level for a commodity shall equal the simple average price received by producers of the commodity, as determined by the Secretary subject to paragraph (3), during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

[(3) CALCULATION OF PAYMENTS FOR DIFFERENT VARIETIES.—

[(A) CROP-BY-CROP BASIS.—The Secretary shall make disaster payments under this subsection on a crop-by-crop basis, with consideration given to markets and uses of the crops, under regulations issued by the Secretary.

[(B) DIFFERENT VARIETIES.—For purposes of determining the payment levels on a crop-by-crop basis, the Secretary shall consider as separate crops, and develop separate payment levels insofar as is practicable for, different varieties of the same commodity, and commodities for which there is a significant difference in the economic value in the market.

[(C) DOUBLE CROPPING.—

[(i) TREATED SEPARATELY.—In the case of a crop that is historically double cropped (including two crops of the same commodity) by the producers on a farm, the Secretary shall treat such cropping separately for purposes of determining whether the crop was affected by damaging weather or related conditions and the total quantity of the crop that the producers are able to harvest.

[(ii) APPLICATION OF PARAGRAPH.—This paragraph shall not apply in the case of a replacement crop.

[(4) EXCLUSIONS FROM HARVESTED QUANTITIES.—For purposes of determining the total quantity of the 1990 nonprogram crop of the commodity that the producers on a farm are able to harvest under paragraph (1), the Secretary shall exclude—

[(A) commodities that cannot be sold in normal commercial channels of trade; and

[(B) dockage, including husks and shells, if such dockage is excluded in determining yields under subsection (d)(2).

[(b) PREVENTED PLANTING CREDIT.—

[(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1990 crop of the commodity for harvest because of damaging weather or related condition in 1989 or 1990, as determined by the Secretary.

[(2) MAXIMUM ACREAGE.—Such acreage may not exceed the greater of—

[(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1989 minus acreage actually planted for harvest in 1990; or

[(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987, 1988, and 1989 minus acreage actually planted to the commodity for harvest in 1990.

[(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers.

[(c) LIMITATION.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 2247.

[(d) SPECIAL RULES FOR NONPROGRAM CROPS.—

[(1) DEFINITION OF NONPROGRAM CORP.—As used in this section, the term "nonprogram crop" means all crops for which crop insurance through the Federal Crop Insurance Corporation was available for crop year 1990, and other commercial crops (including ornamentals which shall include flowering shrubs, flowering trees, and field or container grown roses or turf and sweet potatoes for which such insurance was not available for crop year 1990), except that such term shall not include a crop covered under section 2241, 2242, or 2243, soybeans, or sunflowers.

[(2) FARM YIELDS.—

[(A) ESTABLISHMENT.—The Commodity Credit Corporation shall establish disaster program farm yields for nonprogram crops to carry out this section.

[(B) PROVEN YIELDS AVAILABLE.—If the producers on a farm can provide satisfactory evidence to the Commodity Credit Corporation of actual crop yields on the farm for at least 1 of the immediately preceding 3 crop years, the yield for the farm shall be based on such proven yield.

[(C) PROVEN YIELDS NOT AVAILABLE.—If such data do not exist for any of the 3 preceding crop years, the Commodity Credit Corporation shall establish a yield for the farm by using a county average yield for the commodity, or by using other data available to it.

[(D) COUNTY AVERAGE YIELDS.—In establishing county average yields for nonprogram crops, the Commodity Credit Corporation shall use the best available information concerning yields. Such information may include extension service records, credible nongovernmental studies, and yields in similar counties.

[(3) RESPONSIBILITY OF PRODUCERS.—It shall be the responsibility of the producers of nonprogram crops to provide satisfactory evidence of 1990 crop losses resulting from damaging weather or related condition in 1989 or 1990 in order for such producers to obtain disaster payments under this section.

[SEC. 2245. CROP QUALITY REDUCTION DISASTER PAYMENTS.

[(a) IN GENERAL.—To ensure that all producers of 1990 crops covered under sections 2241 through 2244 are treated equitably, the Secretary of Agriculture may make additional disaster payments to producers of such crops who suffer losses resulting from the reduced quality of such crops caused by damaging weather or related condition in 1989 or 1990, as determined by the Secretary.

[(b) ELIGIBLE PRODUCERS.—If the Secretary determines to make crop quality disaster payments available to producers under subsection (a), producers on a farm of a crop described in subsection (a) shall be eligible to receive reduced quality disaster payments only if such producers incur a deficiency in production of not less than 35 percent and not more than 75 percent for such crop (as determined under section 2241, 2242, 2243, or 2244, as appropriate).

[(c) MAXIMUM PAYMENT RATE.—The Secretary shall establish the reduced quality disaster payment rate, except that such rate shall not exceed 10 percent, as determined by the Secretary, of—

[(1) the established price for the crop, for commodities covered under section 2241;

[(2) the basic county loan rate for the crop (or a comparable price if there is no current basic county loan rate), for commodities covered under section 2242;

[(3) the payment level under section 2243(a)(3), for commodities covered by section 2243; and

[(4) the payment level under section 2244(a)(2), for commodities covered under section 2244.

[(d) DETERMINATION OF PAYMENT.—The amount of payment to a producer under this section shall be determined by multiplying the payment rate established under subsection (c) by the portion of the actual harvested crop on the producer's farm that is reduced in quality by such natural disaster in 1989 or 1990, as determined by the Secretary.

[SEC. 2246. EFFECT OF FEDERAL CROP INSURANCE PAYMENTS.

[In the case of producers on a farm who obtained crop insurance for the 1990 crop of a commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Secretary of Agriculture shall reduce the amount of payments made available under this chapter for such crop to the extent that the amount determined by adding the net amount of crop insurance indemnity payment (gross indemnity less premium paid) received by such producers for the deficiency in the production of the crop and the disaster payment determined in accordance with this chapter for such crop exceeds the amount determined by multiplying—

[(1) 100 percent of the yield used for the calculation of disaster payments made under this chapter for such crop; by

[(2) the sum of the acreage of such crop planted to harvest, and the acreage for which prevented planting credit is approved by the Secretary (or, in the case of disaster payments under section 2241, the eligible acreage established under sections 2241(a)(1) and 2241(a)(2)(A)); by

[(3)(A) in the case of producers who participated in a production adjustment program for the 1990 crop of wheat, feed

grains, upland cotton, extra long staple cotton, or rice, the established price for the 1990 crop of the commodity;

[(B) in the case of producers who did not participate in a production adjustment program for the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the basic county loan rate (or a comparable price, as determined by the Secretary, if there is no current basic county loan rate) for the 1990 crop of the commodity;

[(C) in the case of producers of sugar beets, sugarcane, peanuts, or tobacco, the payment level for the commodity established under section 2243(a)(3); and

[(D) in the case of producers of soybeans or a nonprogram crop (as defined in section 2244(d)(1)), the simple average price received by producers of the commodity, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

[SEC. 2247. CROP INSURANCE COVERAGE FOR THE 1991 CROPS.

[(a) REQUIREMENT.—Subject to the limitations under subsection (b), producers on a farm, to be eligible to receive a disaster payment under this chapter, an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) for crop losses due to damaging weather or related condition in 1989 or 1990, or forgiveness of the repayment of advance deficiency payments under section 2241(b), must agree to obtain multiperil crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the 1991 crop of the commodity for which such payments, loans, or forgiveness are sought.

[(b) LIMITATIONS.—Producers on a farm shall not be required to agree to obtain crop insurance under subsection (a) for a commodity—

[(1) unless such producers' deficiency in production, with respect to the crop for which a disaster payment under this chapter overwise may be made, exceeds 65 percent;

[(2) Where, or if, crop insurance coverage is not available to the producers for the commodity for which the payment, loan, or forgiveness is sought;

[(3) if the producers' annual premium rate for such crop insurance is an amount greater than 125 percent of the average premium rate for insurance on that commodity for the 1990 crop in the county in which the producers are located;

[(4) in any case in which the producers' annual premium for such crop insurance is an amount greater than 25 percent of the amount of the payment, loan, or forgiveness sought; or

[(5) if the producers can establish by appeal to the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)), or to the county committee established under section 332 of the Consolidated Farm and Rural Development Act (17 U.S.C. 1982), as appropriate, that the purchase of crop insurance would impose an undue financial hardship on such producers and that a

waiver of the requirement to obtain crop insurance should, in the discretion of the county committee, be granted.

[(c) IMPLEMENTATION.—

[(1) COUNTY COMMITTEES.—The Secretary of Agriculture shall ensure (acting through the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act and located in the counties in which the assistance programs provided for under sections 2241 through 2245 are implemented and through the county committees established under section 332 of the Consolidated Farm and Rural Development Act in counties in which emergency loans, as described in subsection (a), are made available) that producers who apply for assistance, as described in subsection (a), obtain multiperil crop insurance as required under this section.

[(2) OTHER SOURCES.—Each producer who is subject to the requirements of this section may comply with such requirements by providing evidence of multiperil crop insurance coverage from sources other than through the county committee office, as approved by the Secretary.

[(3) COMMISSIONS.—The Secretary shall provide by regulation for a reduction in the commissions paid to private insurance agents, brokers, or companies on crop insurance contracts entered into under this section sufficient to reflect that such insurance contracts principally involve only a servicing function to be performed by the agent, broker, or company.

[(d) REPAYMENT OF BENEFITS.—Notwithstanding any other provision of law, if (prior to the end of the 1991 crop year for the commodity involved) the crop insurance coverage required of the producer under this section is canceled by the producer, the producer—

[(1) shall make immediate repayment to the Secretary of any disaster payment or forgiven advance deficiency payment that the producer otherwise is required to repay; and

[(2) shall become immediately liable for full repayment of all principal and interest outstanding on any emergency loan described in subsection (a) made subject to this section.

SEC. 2248. CROPS HARVESTED FOR FORAGE USES.

Not later than 45 days after funds are appropriated to carry out this chapter, the Secretary of Agriculture shall announce the terms and conditions by which producers on a farm may establish a 1990 yield with respect to crops that will be harvested for silage and other forage uses.

SEC. 2249. PAYMENT LIMITATIONS.

[(a) LIMITATION.—Subject to subsections (b) and (c), the total amount of payments that a person shall be entitled to receive under one or more of the programs established under this chapter may not exceed $100,000.

[(b) NO DOUBLE BENEFITS.—No person may receive disaster payments under this chapter to the extent that such person receives a livestock emergency benefit for lost feed production in 1990 under section 606 of the Agricultural Act of 1949 (7 U.S.C. 1471d).

[(c) COMBINED LIMITATION.—

[(1) IN GENERAL.—No person may receive any payment under this chapter or benefit under title VI of the Agricultural Act of 1949 (7 U.S.C. 1471 et seq.) for livestock emergency losses suffered in 1990 if such payment or benefit will cause the combined total amount of such payments and benefits received by such person to exceed $100,000.

[(2) ELECTION.—If a producer is subject to paragraph (1), the person may elect (subject to the benefits limitations under section 609 of the Agricultural Act of 1949 (7 U.S.C. 1471g) whether to receive the $100,000 in such payments, or such livestock emergency benefits (not to exceed $50,000), or a combination of payments and benefits specified by the person.

[(d) REGULATIONS.—The Secretary of Agriculture shall issue regulations—

[(1) defining the term "person" for the purposes of this section and section 2266, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308); and

[(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this section.

[SEC. 2250. SUBSTITUTION OF CROP INSURANCE PROGRAM YIELDS.

[(a) IN GENERAL.—Notwithstanding any other provision of this chapter, the Secretary of Agriculture may permit each eligible producer (as defined in subsection (d)) of a 1990 crop of a commodity who has obtained multiperil crop insurance for such crop (or, as provided in subsection (c), who obtained multiperil crop insurance for the producer's 1989 crop of such commodity) under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) to substitute, at the discretion of the producer, the crop insurance yield for such crop, as established under such Act, for the farm yield otherwise assigned to the producer under this chapter, for the purposes of determining such producer's eligibility for a disaster payment on the 1990 crop under this chapter and the amount of such payment.

[(b) ADJUSTMENT OF ADVANCED DEFICIENCY PAYMENTS.—

[(1) IN GENERAL.—Notwithstanding any other provision of this chapter, if an eligible producer of wheat, feed grains, cotton, or rice elects to substitute yields for such producer's 1990 crop under subsection (a), the producer's eligibility for a waiver or repayment of an advance deficiency payment on such crop under this chapter shall be adjusted as provided in paragraph (2).

[(2) AMOUNT.—The amount of production of such crop on which the producer otherwise would be eligible for waiver of repayment of advance deficiency payments under this chapter shall be reduced by an amount of production equal to the difference between—

[(A) the amount of production eligible for disaster payments under this chapter using a substituted yield under this section; and

[(B) the amount of production that would have been eligible for disaster payments using the farm program pay-

ment yield otherwise assigned to the producer under this chapter.

[(c) MULTIPERIL CROP INSURANCE NOT AVAILABLE.—A producer may use the crop insurance yield for the producer's 1989 crop of a commodity for purposes of substituting yields under subsection (a) if the producer demonstrates to the Secretary that, through no fault of the producer, multiperil crop insurance under the Federal Crop Insurance Act was not made available to the producer for the producer's 1990 crop of the commodity.

[(d) DEFINITION OF ELIGIBLE PRODUCER.—For purposes of this section, the term "eligible producer" means a producer of the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans.

[SEC. 2251. DEFINITIONS.

[As used in this chapter:

[(1) DAMAGING WEATHER.—The term "damaging weather" includes but is not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, earthquake, or excessive wind, or any combination thereof.

[(2) RELATED CONDITION.—The term "related condition" includes but is not limited to insect infestations, plant diseases, or other deterioration of a crop of a commodity, including aflatoxin, that is accelerated or exacerbated naturally as a result of damaging weather occurring prior to or during harvest.

[Subchapter B—Orchards

[SEC. 2255. ELIGIBILITY.

[(a) LOSS.—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 2256, to eligible orchardists that planted trees for commercial purposes but lost such trees as a result of freeze, earthquake, or related condition in 1990, as determined by the Secretary.

[(b) LIMITATION.—An eligible orchardist shall qualify for assistance under subsection (a) only if such orchardist's tree mortality, as a result of the natural disaster, exceeds 35 percent (adjusted for normal mortality).

[SEC. 2256. ASSISTANCE.

[The assistance provided by the Secretary of Agriculture to eligible orchardists for losses described in section 2255 shall consist of either—

[(1) reimbursement of 65 percent of the cost of replanting trees lost due to freeze, earthquake, or related condition in 1990 in excess of 35 percent mortality (adjusted for normal mortality); or

[(2) at the discretion of the Secretary, sufficient seedlings to reestablish the stand.

[SEC. 2257. LIMITATION ON ASSISTANCE.

[(a) LIMITATION.—The total amount of payments that a person shall be entitled to receive under this chapter may not exceed $25,000, or an equivalent value in tree seedlings.

[(b) REGULATIONS.—The Secretary of Agriculture shall issue regulations—

[(1) defining the term "person" for the purposes of this chapter, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) and the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note); and

[(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

[SEC. 2258. DEFINITION.

[As used in this chapter, the term "eligible orchardist" means a person who produces annual crops from trees for commercial purposes and owns 500 acres or less of such trees.

[SEC. 2259. DUPLICATIVE PAYMENTS.

[The Secretary of Agriculture shall establish guidelines to ensure that no person receives duplicative payments under this chapter and the forestry incentives program, agricultural conservation program, or other Federal program.

[Subchapter C—Forest Crops

[SEC. 2261. ELIGIBILITY.

[(a) Loss.—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 2262, to eligible tree farmers that planted tree seedlings in 1989 or 1990 for commercial purposes but lost such seedlings as a result of drought, earthquake, or related condition in 1990, as determined by the Secretary.

[(b) LIMITATION.—An eligible tree farmer shall qualify for assistance under subsection (a) only if such tree farmer's tree seedling mortality, as a result of the natural disaster, exceeds 35 percent (adjusted for normal mortality).

[SEC. 2262. ASSISTANCE.

[The assistance provided by the Secretary of Agriculture to eligible tree farmers for losses described in section 2261 shall consist of either—

[(1) reimbursement of 65 percent of the cost of replanting seedlings lost due to drought, earthquake, or related conditions in 1990 in excess of 35 percent mortality (adjusted for normal mortality); or

[(2) at the discretion of the Secretary, sufficient tree seedlings to reestablish the stand.

[SEC. 2263. LIMITATION ON ASSISTANCE.

[(a) LIMITATION.—The total amount of payments that a person shall be entitled to receive under this chapter may not exceed $25,000, or an equivalent value in tree seedlings.

[(b) REGULATIONS.—The Secretary of Agriculture shall issue regulations—

[(1) defining the term "person" for the purposes of this chapter, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 and the Disaster Assistance Act of 1988; and

[(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

[SEC. 2264. DEFINITION.

[As used in this chapter, the term "eligible tree farmer" means a person who grows trees for harvest for commercial purposes and owns 1,000 acres or less of such trees.

[SEC. 2265. DUPLICATIVE PAYMENTS.

[The Secretary of Agriculture shall establish guidelines to ensure that no person receives duplicative payments under this chapter and the forestry incentives program, agricultural conservation program, or other Federal program.

[Subchapter D—Administrative Provisions

[SEC. 2266. INELIGIBILITY.

[(a) GENERAL RULE.—A person who has qualifying gross revenues in excess of $2,000,000 annually, as determined by the Secretary of Agriculture, shall not be eligible to receive any disaster payment or other benefits under this subchapter.

[(b) QUALIFYING GROSS REVENUES.—For purposes of this section, the term "qualifying gross revenues" means—

[(1) if a majority of the person's annual income is received from farming, ranching, and forestry operations, the gross revenue from the person's farming, ranching, and forestry operations; and

[(2) if less than a majority of the person's annual income is received from farming, ranching, and forestry operations, the person's gross revenue from all sources.

[SEC. 2267. TIMING AND MANNER OF ASSISTANCE.

[(a) TIMING OF ASSISTANCE.—

[(1) ASSISTANCE MADE AVAILABLE AS SOON AS PRACTICABLE.—Subject to paragraph (2), the Secretary of Agriculture shall make disaster assistance available under this subchapter as soon as practicable after the date on which appropriations are made available to carry out this chapter.

[(2) COMPLETED APPLICATION.—No payment or benefit provided under this subchapter shall be payable or due until such time as a completed application for a crop of a commodity therefor has been approved.

[(b) MANNER.—The Secretary may make payments available under chapter 1 in the form of cash, commodities, or commodity certificates, as determined by the Secretary.

[SEC. 2268. COMMODITY CREDIT CORPORATION.

[(a) USE.—The Secretary of Agriculture shall use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out this chapter.

[(b) EXISTING AUTHORITY.—The authority provided by this subchapter shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

[SEC. 2269. EMERGENCY LOANS.

[Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(b)) shall not apply to persons who otherwise would be eligible for an emergency loan under subtitle C of such Act, if such eligibility is the result of damage to an annual crop planted for harvest in 1988.

[SEC. 2270. REGULATIONS.

[The Secretary of Agriculture or the Commodity Credit Corporation, as appropriate, shall issue regulations to implement this chapter as soon as practicable after the date on which appropriations are made available to carry out this chapter, without regard to the requirement for notice and public participation in rule making prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

[Subchapter E—Appropriations

[SEC. 2271. AUTHORIZATION OF APPROPRIATIONS.

[Any benefits or assistance (including the foregiveness of unearned advanced deficiency payments of any emergency loans) made available under this chapter shall be provided only to the extent provided for in advance in appropriations Acts. To carry out this chapter there are authorized to be appropriated such sums as may be necessary in each of the fiscal years 1991 and 1992.

[SEC. 2272. PRORATION OF BENEFITS.

[Any funds made available for carrying out this chapter in appropriations Acts shall be prorated to all producers eligible for assistance under this chapter.]

CHAPTER 3—EMERGENCY CROP LOSS ASSISTANCE

SEC. 2240. SHORT TITLE.

This chapter may be cited as the "Agricultural Disaster Assistance Act".

Subchapter A—Annual Crops

SEC. 2241. PAYMENTS TO PROGRAM PARTICIPANTS FOR TARGETS PRICE COMMODITIES.

(a) DISASTER PAYMENTS.

(1) IN GENERAL.—Effective only for producers on a farm who entered into a contract to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for an eligible crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, except as otherwise provided in this subsection, if the Secretary determines that, because of damaging weather or related condition, the total quantity of the crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying 65 percent of the farm program payment yield established by the Secretary for the crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of damaging weather or related condition) to the crop on the farm, as determined by the Secretary, the Secretary

shall make a disaster payment available to the producers as provided in this subsection.

(2) PAYMENTS.—

(A) PAYMENTS FOR PAYMENT ACRES.—

(i) ASSIGNMENT OF LOSS.—Except as provided in subparagraph (C), in making payments available under this subsection, the Secretary shall assign any deficiency in production of the eligible crop by producers to payment acres for the crop based on the ratio the payment acres for the crop on the farm bears to the total acres planted for harvest and prevented from being planted to the crop (because of damaging weather of related condition).

(ii) PAYMENT RATE.—The Secretary shall make a payment available to producers for the deficiency in production for the crop assigned to payment acres at a rate equal to 65 percent of the established price for the crop for any deficiency in production greater than 35 percent for the crop.

(B) PAYMENTS FOR NONPAYMENT ACRES.—

(i) ASSIGNMENT OF LOSS.—Except as provided in subparagraph (C), in making payments available under this subsection, the Secretary shall assign the deficiency in production of the eligible crop by producers to nonpayment acres for the crop based on the ratio the nonpayment acres for the crop on the farm bears to the total acres planted for harvest and prevented from being planted to the crop (because of damaging weather or related condition).

(ii) PAYMENT RATE.—The Secretary shall make a payment available to producers for the deficiency in production for the crop assigned to nonpayment acres at a rate equal to 65 percent of the basic county loan rate for the crop for any deficiency in production greater than 35 percent for the crop.

(C) PAYMENTS FOR EXTRA LONG STAPLE COTTON AND PRODUCERS OF WHEAT, FEED GRAINS, UPLAND COTTON, OR RICE DURING A CROP YEAR PRIOR TO 1991.—The Secretary shall make a payment under this subsection available to producers of an eligible crop of extra long staple cotton and an eligible crop of wheat, feed grains, upland cotton, or rice that is prior to the 1991 crop at a rate equal to 65 percent of the established price for the crop for any deficiency in production greater than 35 percent for the crop.

(D) LIMITATION.—Payments shall be made available to producers under this section only if the Secretary determines that—

(i) the producer entered into a contract to participate in the production adjustment program for the eligible crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice; and

(ii) the producer is in compliance with the contract.

(3) OTHER PROVISIONS.—

(A) DEFINITIONS.—As used in this section:

(i) NONPAYMENT ACRES.—The term "nonpayment acres" means the total acreage planted to wheat, feed grains, upland cotton, or rice, as applicable, by a participant in the production adjustment programs for the commodities under sections 101B, 103B, 105B. 107B, or 504 of the Agricultural Act of 1949 (7 U.S.C. 1441–2, 1444–2, 1444f, 1445b–3a, or 1464) less the amount of payment acres planted to the corp.

(ii) PAYMENT ACRES.—The term "payment acres" has the same meaning as in sections 101B(c)(1)(C), 103B(c)(1)(C), 105B(c)(1)(C), or 107B(c)(10(C) of such Act, as applicable.

(B) CROP INSURANCE.—Payments provided under this section for a crop of a commodity may not be made available to producers on a farm unless the producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 2247.

(4) REDUCTION IN DEFICIENCY PAYMENTS.—The total quantity of a crop of a commodity on which deficiency payments otherwise would be payable to producers on a farm under the Agricultural Act of 1949 (7 U.S.C. 1421 et. seq) shall be reduced by the quantity on which a payment is made to the producers for the crop under this section.

(5) ELECTION OF PAYMENTS.—

(A) APPLICATION OF PARAGRAPH.—This paragraph shall apply only to producers of an eligible crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice on a farm who—

(i) had failed wheat, feed grain, upland cotton extra long staple cotton, or rice acreage during the crop year; or

(ii) were prevented from planting acreage to the commodity because of damaging weather or related condition.

(B) ELECTION.—The Secretary of Agriculture shall (within 30 days after the date on which assistance is made available under this subchapter for a crop year) permit producers referred to in subparagraph (A) to elect whether to receive disaster payments for the crop for the crop year in accordance with this section in lieu of payments received for the crop under section 101B(c)(1)(D), 103B(c)(1)(D) 105(B)(c)(1)(E), or 107B(c)(1)(E) of the Agricultural Act of 1949 (7 U.S.C. 1441–2(c)(1)(D), 1444–2(c)(1)(D), 1444f(c)(1)(E), 1445b–3a(c)(1)(E)) (or the corresponding provision in the case of the 1990 crop).

(6) SPRING WHEAT AS REPLACEMENT CROP FOR WINTER WHEAT.—In providing assistance under this section or section 2242 for a crop of winter wheat, the Secretary shall disregard spring wheat that is planted as a replacement crop for the winter wheat.

(b) ADVANCE DEFICIENCY PAYMENTS.—

(1) APPLICATION OF SUBSECTION.—This subsection shall apply only to producers on a farm who elect to participate in the production adjustment program established under the agricultural

Act of 1949 (7 U.S.C. 1421 et seq.) for the crop of wheat, feed grains, upland cotton extra long staple cotton, or rice for an eligible crop.

(2) FORGIVENESS OF REFUND REQUIREMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), if because of damaging weather or related condition the total quantity of an eligible crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying the farm program payment yield established by the Secretary for the crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of a natural disaster, as determined by the Secretary) for the crop (hereinafter in this section referred to as the "qualifying amount"), the producers shall not be required to refund any advance deficiency payment made to the producers for the crop under section 114 of the Agricultural Act of 1949 (7 US.S.C. 1445j) (or, in the case of 1990 crops, section 107C of such Act (7 U.S.C. 1445b–2) as in effect on November 27, 1990) with respect to that portion of the deficiency in production that does not exceed 35 percent of the qualifying amount.

(B) CROP INSURANCE.—Producers on a farm shall not be eligible for the forgiveness provided for under subparagraph (A), unless the producers enter into an agreement to obtain multiperil crop insurance to the extent required under section 2247.

(3) ELECTION FOR NONRECIPIENTS.—The Secretary shall allow producers on a farm who, before the date on which assistance is made available under this subchapter for a crop year, elected not to receive advance deficiency payments made available for the crop for the crop year under section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) (or, in the case of 1990 crops, section 107C of such Act (7 U.S.C. 1445b–2) as in effect on November 27, 1990) to elect (within 30 days after such date) whether to receive the advance deficiency payments.

(4) DATE OF REFUND FOR PAYMENTS.—If the Secretary determines that any portion of the advance deficiency payment made to producers for a crop of wheat, feed gains, upland cotton, extra long staple cotton, or rice under section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) (or, in the case of 1990 crops, section 107C of such Act (7 U.S.C. 1445b–2) as in effect on November 27, 1990) must be refunded, the refund shall not be required prior to July 31 of the year following the determination for that portion of the crop for which a disaster payment is made under subsection (a).

SEC. 2242. PAYMENTS TO PROGRAM NONPARTICIPANTS.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—Effective only for producers on a farm who elected not to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for an eligible crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice for the crop year, if the Secretary of Agriculture determines that, because of damaging

weather or related condition, the total quantity of the crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying 65 percent of the county average yield established by the Secretary for the crop by the sum of acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for the crop under subsection (b), the Secretary shall make a disaster payment available to the producers.

(2) PAYMENT RATE.—The payment shall be made to the producers at a rate equal to 65 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 35 percent.

(b) PREVENTED PLANTING CREDIT.—

(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage for an eligible crop that producers on a farm were prevented from planting to the crop of the commodity for harvest because of damaging weather or related condition, as determined by the Secretary.

(2) MAXIMUM ACREAGE.—The acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in the immediately preceding crop year minus acreage actually planted to the commodity for harvest in the crop year involved;

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in the 3 immediately preceding crop years minus acreage actually planted to the commodity for harvest in the crop year involved; or

(C) with respect to crops planted as provided under section 504 of the Agricultural Act of 1949 (7 U.S.C. 1464) for which no such planting history is established, a quantity of acreage determined to be fair and reasonable by the Secretary.

(3) ADJUSTMENT.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers.

(c) LIMITATIONS.—

(1) ACREAGE LIMITATION PROGRAM.—The amount of payments made available to producers on a farm who elect not to participate in the production adjustment program for an eligible crop of a commodity under subsection (a) shall be reduced by a factor equivalent to the acreage limitation program percentage established for the crop under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

(2) CROP INSURANCE.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless the producers enter into an agree-

ment to obtain multiperil crop insurance to the extent required under section 2247.

SEC. 2243. PEANUTS, SUGAR, AND TOBACCO.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—Effective only for an eligible crop of peanuts, sugar beets, sugarcane, and tobacco, if the Secretary of Agriculture determines that, because of damaging weather or related condition, the total quantity of the crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 65 percent of the county average yield (or program yield, in the case of peanuts) established by the Secretary for the crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for the crop under subsection (b), the Secretary shall make a disaster payment available to the producers.

(2) PAYMENT RATE.—The payment shall be made to the producers at a rate equal to 65 percent of the applicable payment level under paragraph (3), as determined by the Secretary, for any deficiency in production greater than—

(A) 35 percent for the crop; or

(B) with respect to a crop of burley tobacco or flue-cured tobacco, 35 percent of the farm's effective marketing quota for the crop for the crop year.

(3) PAYMENT LEVEL.—For purpose of paragraph (1), the payment level for a commodity shall be equal to—

(A) for peanuts, the price support level for quota peanuts or the price support level for additional peanuts, as applicable;

(B) for tobacco, the national average loan rate for the type of tobacco involved, or (if there is none) the market price, as determined under section 2244(a)(2); and

(C) for sugar beets and sugarcane, a level determined by the Secretary to be fair and reasonable in relation to the level of price support established for crops of sugar beets and sugarcane for the crop year involved, and that, insofar as is practicable, shall reflect no less return to the producer than under the price support levels in effect for the crop year.

(b) PREVENTED PLANTING CREDIT.—

(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage for an eligible crop that producers on a farm were prevented from planting to the crop of the commodity for harvest because of damaging weather or related condition, as determined by the Secretary.

(2) MAXIMUM ACREAGE.—The acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in the immediately preceding crop year minus acreage actually planted for harvest in the crop year involved;

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in the 3 immediately preceding crop years minus acreage actually planted to the commodity for harvest in the crop year involved; or

(C) with respect to crops planted on flexible acres as provided under section 504 of the Agricultural Act of 1949 (7 U.S.C. 1464) for which no such planting history is established, a quantity of acreage determined to be fair and reasonable by the Secretary.

(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying for a crop year the limitations contained in paragraph (2) to take into account crop rotation practices of the producers and any change in quotas for crops of tobacco for the crop year.

(c) LIMITATION.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless the producers enter into an agreement to obtain multiperil crop insurance to the extent required under section 2247.

(d) SPECIAL RULES FOR PEANUTS.—Not withstanding any other provision of law—

(1) a deficiency in production of quota peanuts from a farm, as otherwise determined under this section, shall be reduced by the quantity of peanut poundage quota that was the basis of the anticipated production that has been transferred from the farm;

(2) payments made under this section shall be made taking into account whether the deficiency for which the deficiency in production is claimed was a deficiency in production of quota or additional peanuts and the payment rate shall be established accordingly; and

(3) the quantity of undermarketings of quota peanuts from a farm for a crop that may otherwise be claimed under section 358–1 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1 (or, in the case of 1990 crops of peanuts, section 358 of such Act (7 U.S.C. 1358) as in effect on November 27, 1990) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of the peanuts for which payment has been received under this section.

(e) SPECIAL RULES FOR TOBACCO.—Notwithstanding any other provision of law—

(1) the quantity of undermarketings of quota tobacco from a farm for a crop that may otherwise be claimed under section 317 or 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c or 1314e) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of the tobacco for which payment has been received under this section; and

(2) disaster payments made to producers under this section may not be considered by the Secretary in determining the net losses of the Commodity Credit Corporation under section 106A(d) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)).

(f) SPECIAL RULE FOR SUGARCANE.—For purposes of determining the total quantity of a crop of sugarcane that the producers on a

farm are able to harvest, the Secretary shall make the determination based on the quantity of recoverable sugar.

SEC. 2244. OILSEEDS AND NONPROGRAM CROPS.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—

(A) ELIGIBILITY.—Effective only for an eligible crop of oilseeds (as defined in section 205(a) of the Agricultural Act of 1949 (7 U.S.C. 1446f(a)) and nonprogram crops, the Secretary shall make a disaster payment under this section available to the producers on a farm if the Secretary of Agriculture determines that, because of damaging weather or related condition, the total quantity of the crop of the commodity that the producers are able to harvest is less than—

(i) with respect to oilseeds, the result of multiplying 65 percent of the State, area, or county yield, adjusted for adverse weather conditions during the 3 immediately preceding crop years, as determined by the Secretary, for the crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for the crop under subsection (b);

(ii) with respect to nonprogram crops (other than as provided in clauses (i), (iii), and (iv)), the result of multiplying 65 percent of the yield established by the Commodity Credit Corporation under subsection (d)(2) for the crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for the crop under subsection (b);

(iii) with respect to crops covered in section 207 of the Agricultural Act of 1949 (7 U.S.C. 1446h) (or, in the case of 1990 crops, section 201(b) of such Act (7 U.S.C. 1446(b)) as in effect on November 27, 1990), 65 percent of the historical annual yield of the producers for the crops, as determined by the Secretary; and

(iv) with respect to fish or seafood described in subsection (d)(1)(A)(ii)(III), 65 percent of the historical annual yield of the acreage of the pond or other aquatic areas in which the fish or seafood are produced or prevented from being produced.

(B) PAYMENT RATE.—The payment shall be made to the producers at a rate equal to 65 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 35 percent for oilseeds and other nonprogram crops for the crop.

(C) SPECIAL RULE FOR 1990 CROPS.—In the case of 1990 crops, assistance under this section shall be available only to the extent that assistance was not made available under the Disaster Assistance Act of 1989 (Public Law 101–82; 103 Stat. 564) or any other Act for the same losses of the crops.

(2) PAYMENT LEVEL.—For purposes of paragraph (1), the payment level for a commodity shall equal the simple average price

received by producers of the commodity, as determined by the Secretary subject to paragraph (3), during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period.

(3) CALCULATION OF PAYMENTS FOR DIFFERENT VARIETIES.—

(A) CROP-BY-CROP-BASIS.—The Secretary shall make disaster payments under this subsection on a crop-by-crop basis, with consideration given to markets and uses of the crops, under regulations issued by the Secretary

(B) DIFFERENT VARIETIES.—For purposes of determining the payment levels on a crop-by-crop-basis, the Secretary shall consider as separate crops, and develop separate payment levels insofar as is practicable for, different varieties of the same commodity, and commodities for which there is a significant difference in the economic value in the market.

(C) DOUBLE CROPPING.—

(i) TREATED SEPARATELY.—In the case of a crop that is historically double cropped (including 2 crops of the same commodity) by the producers on a farm, the Secretary shall treat each cropping separately for purposes of determining whether the crop was affected by damaging weather or related condition and the total quantity of the crop that the producers are able to harvest.

(ii) APPLICATION OF SUBPARAGRAPH.—This subparagraph shall not apply in the case of a replacement crop.

(D) NAVEL AND VALENCIA ORANGES TREATED AS SEPARATE CROPS.—For the purpose of programs administered under this chapter and the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), navel oranges and valencia oranges shall be considered separate crops.

(4) EXCLUSIONS FROM HARVESTED QUANTITIES.—For purposes of determining the total quantity of a nonprogram crop of the commodity that the producers on a farm are able to harvest under paragraph (1), the Secretary shall—

(A) exclude commodities that cannot be sold in normal commercial channels of trade;

(B) exclude dockage, including husks and shells, if the dockage is excluded in determining yields under subsection (d)(2); and

(C) adjust such quantity to take into consideration declines in the value of the crop of the commodity that are attributable to a deterioration in the quality of the commodity caused by the damaging weather or related condition.

(b) PREVENTED PLANTING CREDIT.—

(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage for a crop year that producers on a farm were prevented from planting to the crop of the commodity for harvest because of damaging weather or related condition, as determined by the Secretary.

(2) MAXIMUM ACREAGE.—The acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in the immediately preceding crop year minus acreage actually planted for harvest in the crop year involved;

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in the 3 immediately preceding crop years minus acreage actually planted to the commodity for harvest in the crop year involved; or

(C) with respect to crops planted as provided under section 504 of the Agricultural Act of 1949 (7 U.S.C. 1464) for which no such planting history is established, a quantity of acreage determined to be fair and reasonable by the Secretary.

(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers.

(c) LIMITATION.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless the producers enter into an agreement to obtain multiperil crop insurance to the extent required under section 2247.

(d) SPECIAL RULES FOR NONPROGRAM CROPS.—

(1) NONPROGRAM CROP DEFINED.—

(A) INCLUDED IN DEFINITION.—Except as provided in subparagraph (B), for purposes of this section, the term "nonprogram crop" means—

(i) all crops for which crop insurance through the Federal Crop Insurance Corporation was available for a crop year; and

(ii) other commercial crops for which the insurance was not available for the crop year, including—

(I) ornamentals, such as flowering shrubs, flowering trees, field or container grown roses, or turf;

(II) sweet potatoes, and

(III) fish or seafood produced or prevented from being produced in established freshwater commercial aquaculture operations.

(B) EXCEPTION.—The term "nonprogram crop" in subparagraph (A) shall not include a crop covered under section 2241, 2242, or 2243, or oilseeds.

(2) FARM YIELDS.—

(A) ESTABLISHMENT.—The Commodity Credit Corporation shall establish disaster program farm yields for nonprogram crops to carry out this section.

(B) PROVEN YIELDS AVAILABLE.—If the producers on a farm can provide satisfactory evidence to the Commodity Credit Corporation of actual crop yields on the farm for at least 1 of the immediately preceding 3 crop years, the yield for the farm shall be based on the proven yield.

(C) PROVEN YIELDS NOT AVAILABLE.—If the data do not exist for any of the 3 preceding crop years, the Commodity

Credit Corporation shall establish a yield for the farm by using a county average yield for the commodity, or by using other data available to it.

(D) COUNTY AVERAGE YIELDS.—In establishing county average yields for nonprogram crops, the Commodity Credit Corporation shall use the best available information concerning yields. The information may include extension service records, credible nongovernmental studies, and yields in similar counties.

(3) RESPONSIBILITY OF PRODUCERS.—It shall be the responsibility of the producers of nonprogram crops to provide satisfactory evidence of crop losses for a crop year resulting from damaging weather or related condition in order for the producers to obtain disaster payments under this section.

(e) SPECIAL RULE FOR VALENCIA ORANGES.—For the purposes of this section, the 1990 crop of valencia oranges shall include any crop of valencia oranges, regardless of the year in which those oranges would be harvested, that was destroyed or damaged by damaging weather or related condition in 1990.

SEC. 2245. CROP QUALITY REDUCTION DISASTER PAYMENTS.

(a) IN GENERAL.—To ensure that all producers of crops covered under sections 2241 through 2244 are treated equitably, the Secretary of Agriculture shall make additional disaster payments to producers of the crops for a crop year who suffer losses resulting from the reduced quality of the crops caused by damaging weather or related condition, as determined by the Secretary.

(b) ELIGIBLE PRODUCERS.—Producers on a farm of a crop described in subsection (a) shall be eligible to receive reduced quality disaster payments only if the producers incur a deficiency in production of not less than 40 percent (as determined under section 2241, 2242, 2243, or 2244, as appropriate).

(c) MAXIMUM PAYMENT RATE.—The Secretary shall establish the reduced quality disaster payment rate, except that the rate shall not exceed 10 percent, as determined by the Secretary, of—

(1) the established price for the crop, for commodities covered under section 2241;

(2) the basic county loan rate for the crop (or a comparable price if there is no current basic county loan rate), for commodities covered under section 2242;

(3) the payment level under section 2243(a)(3), for commodities covered by section 2243; and

(4) the payment level under section 2244(a)(2), for commodities covered under section 2244.

(d) DETERMINATION OF PAYMENT.—The amount of payment to a producer under this section shall be determined by multiplying the payment rate established under subsection (c) by the portion of the actual harvested crop on the producer's farm that is reduced in quality by the natural disaster, as determined by the Secretary.

SEC. 2246. EFFECT OF FEDERAL CROP INSURANCE PAYMENTS.

In the case of producers on a farm who obtained crop insurance for a crop of a commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Secretary of Agriculture shall reduce the amount of payments made available under this subchapter for the

crop to the extent that the amount determined by adding the net amount of crop insurance indemnity payment (gross indemnity less premium paid) received by the producers for the deficiency in the production of the crop and the disaster payment determined in accordance with this chapter for the crop exceeds the amount determined by multiplying—

(1) 100 percent of the yield used for the calculation of disaster payments made under this chapter for the crop; by

(2) the sum of the acreage of the crop planted to harvest and the acreage for which prevented planting credit is approved by the Secretary (or, in the case of disaster payments under section 2241, the eligible acreage established under paragraphs (1) and (3)(A) of section 2241(a)); by

(3)(A) in the case of producers who participated in a production adjustment program for the crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice for the crop year, the established price for the crop of the commodity;

(B) in the case of producers who did not participate in a production adjustment program for the crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice for the crop year (and, with respect to flexible acres as provided under section 2241(a)(2), in the case of those producers who did participate in the program for the year), the basic county loan rate (or a comparable price, as determined by the Secretary, if there is no current basic county loan rate) for the crop of the commodity;

(C) in the case of producers of sugar beets, sugarcane, peanuts, or tobacco, the payment level for the commodity established under section 2243(a)(3); and

(D) in the case of producers of oilseeds or a nonprogram crop (as defined in section 2244(d)(1)), the simple average price received by producers of the commodity, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period.

SEC. 2247. CROP INSURANCE COVERAGE.

(a) REQUIREMENT.—To be eligible to receive for an eligible crop year a disaster payment under this subchapter, an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) for crop losses due to damaging weather or related condition, or forgiveness of the repayment of advance deficiency payments under section 2241(b), the producers on a farm shall agree to obtain multiperil crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the 1992 crop.

(b) LIMITATIONS.—Notwithstanding subsection (a), producers on a farm shall not be required to agree to obtain crop insurance under subsection (a) for a commodity—

(1) unless the producers' deficiency in production, with respect to the crop for which a disaster payment under this chapter otherwise may be made, exceeds 75 percent;

(2) where, or if, crop insurance coverage is not available to the producers for the commodity for which the payment, loan, or forgiveness is sought;

(3) if the producers' annual premium rate for the crop insurance is an amount greater than 125 percent of the average premium rate for insurance on that commodity for the preceding crop year in the county in which the producers are located;

(4) in any case in which the producers' annual premium for the crop insurance is an amount greater than 25 percent of the amount of the payment, loan, or forgiveness received; or

(5) if the producers can establish by appeal to the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)), or to the county committee established under section 332 of the Consolidated Farm and Rural Development Act (17 U.S.C. 1982), as appropriate, that the purchase of crop insurance would impose an undue financial hardship on the producers and that a waiver of the requirement to obtain crop insurance should, in the discretion of the county committee, be granted.

(c) IMPLEMENTATION.—

(1) COUNTY COMMITTEES.—The Secretary of Agriculture shall ensure (acting through the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act and located in the counties in which the assistance programs provided for under sections 2241 through 2245 are implemented, and through the county committees established under section 332 of the Consolidated Farm and Rural Development Act in counties in which emergency loans, as described in subsection (a), are made available) that producers who apply for assistance, as described in subsection (a), obtain multiperil crop insurance as required under this section.

(2) OTHER SOURCES.—Each producer who is subject to the requirements of this section may comply with the requirements by providing evidence of multiperil crop insurance coverage from sources other than through the county committee office, as approved by the Secretary.

(3) COMMISSION.—The Secretary shall provide by regulation for a reduction in the commissions paid to private insurance agents, brokers, or companies on crop insurance contracts entered into under this section sufficient to reflect that the insurance contracts principally involve only a servicing function to be performed by the agent, broker, or company.

(d) REPAYMENT OF BENEFITS.—Notwithstanding any other provision of law, if (before the end of the crop year for which multiperil crop insurance is obtained pursuant to subsection (a)) the crop insurance coverage is canceled by the producer, the producer—

(1) shall make immediate repayment to the Secretary of any disaster payment or forgiven advance deficiency payment that the producer otherwise is required to repay; and

(2) shall become immediately liable for full repayment of all principal and interest outstanding on any emergency loan described in subsection (a) made subject to this section.

SEC. 2248. CROPS HARVESTED FOR FORAGE USES.

Not later than 45 days after funds are appropriated to carry out this subchapter for a crop year, the Secretary of Agriculture shall announce the terms and conditions by which producers on a farm

may establish a yield for that crop year with respect to crops that were, or will be, harvested during the during the crop year for silage and other forage uses.

SEC. 2249. PAYMENT LIMITATIONS.

(a) LIMITATION.—Subject to subsections (b) and (c), the total amount of payments that a person shall be entitled to receive for a crop year under one or more of the programs established under this subchapter may not exceed $100,000.

(b) NO DOUBLE BENEFITS.—No person may receive disaster payments for a crop year under this subchapter to the extent that the person receives a livestock emergency benefit for lost feed production in that year under section 606 of the Agricultural Act of 1949 (7 U.S.C. 1471d).

(c) COMBINED LIMITATION.—

(1) IN GENERAL.—No person may receive any payment under this subchapter or benefit under title VI of the Agricultural Act of 1949 (7 U.S.C. 1471 et seq.) for livestock emergency losses suffered in a crop year if the payment or benefit will cause the combined total amount of the payments and benefits received by the person in the year to exceed $100,000.

(2) ELECTION.—If a producer is subject to paragraph (1), the person may elect (subject to the benefits limitations under section 609 of the Agricultural Act of 1949 (7 U.S.C. 1471g) whether to receive the $100,000 in the payments, or the livestock emergency benefits (not to exceed $50,000), or a combination of payments and benefits specified by the person.

(d) REGULATIONS.—The Secretary of Agriculture shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this section.

SEC. 2250. SUBSTITUTION OF CROP INSURANCE PROGRAM YIELDS.

(a) IN GENERAL.—Notwithstanding any other provision of this chapter, the Secretary of Agriculture may permit each eligible producer of a crop of a commodity who has obtained multiperil crop insurance for the crop for a crop year or, as provided in subsection (c), the preceding crop year under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) to substitute, at the discretion of the producer, the crop insurance yield for the crop, as established under such Act, for the farm yield otherwise assigned to the producer under this subchapter, for the purposes of determining the producer's eligibility for a disaster payment on the crop under this subchapter for the crop year involved and the amount of the payment.

(b) ADJUSTMENT OF ADVANCED DEFICIENCY PAYMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of this chapter, if an eligible producer of wheat, feed grains, upland cotton, extra long staple cotton, or rice for a crop year elects to substitute yields for the producer's crop under subsection (a), the producer's eligibility for a waiver of repayment of an advance deficiency payment on the crop under this chapter shall be adjusted as provided in paragraph (2).

(2) AMOUNT.—The amount of production of the crop on which the producer otherwise would be eligible for waiver of repayment of advance deficiency payments under this subchapter

shall be reduced by an amount of production equal to the difference between—

(A) the amount of production eligible for disaster payments under this subchapter using a substituted yield under this section; and

(B) the amount of production that would have been eligible for disaster payments using the farm program payment yield otherwise assigned to the producer under this chapter.

(c) MULTIPERIL CROP INSURANCE NOT AVAILABLE.—A producer may use the crop insurance yield for the producer's crop of a commodity for the preceding crop year for purposes of substituting yields under subsection (a) if the producer demonstrates to the Secretary that, through no fault of the producer, multiperil crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) was not made available to the producer for the producer's crop of the commodity for the crop year involved.

(d) DEFINITION OF ELIGIBLE PRODUCER.—For purposes of this section, the term "eligible producer" means a producer of a crop of wheat, feed grains, upland cotton, extra long staple cotton, rice, or oilseeds.

SEC. 2251. DE MINIMIS YIELDS.

(a) IN GENERAL.—The Secretary of Agriculture may determine a de minimis yield for each crop eligible for reduced yield disaster payments under this subchapter.

(b) LEVEL.—The de minimis yield shall be set at a level that will minimize any incentive (because of the prospect of disaster payments) for a producer to abandon crops that have a value that exceeds the cost of harvesting. In no case may the de minimis yield be less than the amount of production that, when valued at current market prices, equals the average cost of harvesting the crop, as determined by the Secretary.

(c) ACTUAL YIELDS OF ZERO.—Any producer whose actual yield for a crop is equal to or less than the de minimis yield for the crop shall be considered as having an actual yield of zero for the purpose of calculating any reduced yield disaster payments for the crop under this subchapter.

SEC. 2252. PRODUCER ELIGIBILITY.

A producer on a farm who produces any crop of a commodity for which disaster payments are made available under this subchapter shall qualify for a disaster payment if the total quantity of the commodity that the producer is able to harvest on that farm is reduced as a result of damaging weather or related condition in an amount that meets the criteria of section 2241, 2242, 2243, or 2244, even though the producers on the farm, collectively, may not meet the criteria.

SEC. 2253. DEFINITIONS.

For purposes of this chapter:

(1) DAMAGING WEATHER.—The term "damaging weather" includes but is not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, earthquake, or excessive wind (or any combination thereof).

(2) PERSON.—The term "person" shall have the meaning given the term by the Secretary in regulations, which shall conform, to the extent practicable, to the regulations defining the term issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) and the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note).

(3) RELATED CONDITION.—The term "related condition" includes but is not limited to insect infestations, plant diseases (including fire blight), or other deterioration of a crop of a commodity, including aflatoxin, that is accelerated or exacerbated naturally as a result of damaging weather.

Subchapter B—Orchards

SEC. 2255. ELIGIBILITY.

(a) LOSS.—The Secretary of Agriculture shall provide assistance under section 2256 to eligible orchardists that planted trees for commercial purposes but lost the trees as a result of damaging weather or related condition occurring in 1990 or 1991, as determined by the Secretary.

(b) LIMITATION.—An eligible orchardist shall qualify for assistance under subsection (a) only if the orchardist's tree mortality, as a result of the damaging weather or related condition, exceeds 35 percent (adjusted for normal mortality).

SEC. 2256. ASSISTANCE.

The assistance provided by the Secretary of Agriculture to eligible orchardists for losses described in section 2255 shall consist of either—

(1) reimbursement of 65 percent of the cost of replanting trees lost and rehabilitating trees damaged as a result of damaging weather or related condition in the calendar year involved in excess of 35 percent mortality (adjusted for normal mortality); or

(2) at the discretion of the Secretary, sufficient seedlings to reestablish the stand.

SEC. 2257. LIMITATION ON ASSISTANCE.

(A) LIMITATION.—The total amount of payments that a person shall be entitled to receive under this subchapter for a calendar year may not exceed $25,000, or an equivalent value in tree seedlings.

(b) REGULATIONS.—The Secretary of Agriculture shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

SEC. 2258. DEFINITION.

For purposes of this subchapter, the term "eligible orchardist" means a person who produces annual crops from trees for commercial purposes and owns 500 acres or less of the trees.

SEC. 2259. DUPLICATIVE PAYMENTS.

The Secretary of Agriculture shall establish guidelines to ensure that no person receives duplicative payments under this subchapter and the foresty incentives program, agricultural conservation program, or other Federal program.

Subchapter C—Forest Crops

SEC. 2261. ELIGIBILITY.

(a) LOSS.—The Secretary of Agriculture shall provide assistance, as specified in section 2262, to eligible tree farmers that planted tree seedlings in 1990 or 1991 for commercial purposes but lost the seedlings as a result of damaging weather or related condition occurring in 1990 or 1991, respectively, as determined by the Secretary.

(b) LIMITATION.—An eligible tree farmer shall qualify for assistance under subsection (a) only if the tree farmer's tree seedling mortality, as a result of the damaging weather or related condition, exceeds 55 percent (adjusted for normal mortality).

SEC. 2262. ASSISTANCE.

The assistance provided by the Secretary of Agriculture to eligible tree farmers for losses described in section 2261 shall consist of either—

(1) reimbursement of 65 percent of the cost of replanting seedlings lost due to damaging whether or related conditions in the calendar year involved in excess of 35 percent mortality (adjusted for normal mortality); or

(2) at the discretion of the Secretary, sufficient tree seedlings to reestablish the stand.

SEC. 2263. LIMITATION ON ASSISTANCE.

(a) LIMITATION.—The total amount of payments that a person shall be entitled to receive under this subchapter may not exceed $25,000 for a calendar year, or an equivalent value in tree seedlings.

(b) REGULATIONS.—The Secretary of Agriculture shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

SEC. 2264. DEFINITION.

For purposes of this subchapter, the term 'eligible tree farmer' means a person who grows trees for harvest for commercial purposes and owns 1,000 acres or less of the trees.

SEC. 2265. DUPLICATIVE PAYMENTS.

The Secretary of Agriculture shall establish guidelines to ensure that no person receives duplicative payments under this subchapter and the forestry incentives program, agricultural conservation program, or other Federal program.

Subchapter D—Administrative Provisions

SEC. 2266. INELIGIBILITY.

(a) GENERAL RULE.—A person who has qualifying gross revenues in excess of $2,000,000 annually, as determined by the Secretary of Agriculture, shall not be eligible to receive any disaster payment or other benefits under this chapter.

(b) QUALIFYING GROSS REVENUES.—For purposes of this section, the term "qualifying gross revenues" means—

(1) if a majority of the person's annual income is received from farming, ranching, and forestry operations, the gross revenue from the person's farming, ranching, and forestry operations; and

(2) if less than a majority of the person's annual income is received from farming, ranching, and forestry operations, the person's gross revenue from all sources.

SEC. 2267. TIMING AND MANNER OF ASSISTANCE.

(a) TIMING OF ASSISTANCE.—

(1) ASSISTANCE MADE AVAILABLE AS SOON AS PRACTICABLE.—Subject to paragraph (2), the Secretary of Agriculture shall make disaster assistance available under this chapter, as soon as practicable after the date on which appropriations are made available to carry out this chapter.

(2) COMPLETED APPLICATION.—No payment or benefit provided under this chapter shall be payable or due until such time as a completed application for the payment or benefit for a crop of a commodity has been approved.

(b) MANNER.—The Secretary may make payments available under subchapter A in the form of cash, commodities, or commodity certificates, as determined by the Secretary.

SEC. 2268. COMMODITY CREDIT CORPORATION.

(a) USE.—Except as provided in section 2271, the Secretary of Agriculture shall use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out this chapter.

(b) EXISTING AUTHORITY.—The authority provided by this chapter shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

SEC. 2269. EMERGENCY LOANS.

Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(b)) shall not apply for a calendar year to persons who otherwise would be eligible for an emergency loan under subtitle C of such Act, if the eligibility is the result of damage to an annual crop planted for harvest in the year.

SEC. 2270. REGULATIONS.

The Secretary of Agriculture or the Commodity Credit Corporation, as appropriate, shall issue regulations to implement this chapter as soon as practicable after the date on which appropriations are made to carry out this chapter, without regard to the requirement for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

Subchapter E—Authorization of Appropriations

SEC. 2271. AUTHORIZATION OF APPROPRIATIONS.

Any benefits or assistance (including the forgiveness of unearned advanced deficiency payments or any emergency loans) made available under this chapter shall be provided for a year only to the extent provided for in advance in appropriations Acts. To carry out this chapter, there are authorized to be appropriated such sums as may be necessary for fiscal year 1992. Sums appropriated under this section shall remain available until expended.

SEC. 2272. PRORATION OF BENEFITS.

Any funds made available for carrying out this chapter for a calendar year in appropriations Acts shall be prorated to all producers eligible for assistance under this chapter in the year.

Subchapter F—Application of Chapter

SEC. 2273. ELIGIBLE CROP.

(a) ELIGIBLE CROP.—For the purposes of this chapter, the term "eligible crop" means the 1990 or 1991 crop of wheat, feed grains, upland cotton, extra long staple cotton, rice, peanuts, oilseeds, sugarcane, sugar beets, tobacco, or nonprogram crop.

(b) ADVERSE IMPACT OF DAMAGING WEATHER.—Assistance under this chapter shall be provided for—

(1) the 1990 crops of wheat, feed grains, upland cotton, extra long staple cotton, rice, peanuts, oilseeds, sugarcane, sugar beets, tobacco, and nonprogram crops only with respect to crop damage caused by damaging weather or related condition occurring during 1990 (or with respect to a fall seeded crop, the fall of 1989); and

(2) the 1991 crops of wheat, feed grains, upland cotton, extra long staple cotton, rice, peanuts, oilseeds, sugarcane, sugar beets, tobacco, and nonprogram crops only with respect to crop damage caused by damaging weather or related condition occurring during 1991 (or with respect to a fall seeded cop, the fall of 1990).

(c) ELECTION OF APPLICABLE BENEFITS.—Producers on a farm eligible for benefits under this chapter with respect to both the 1990 and 1991 crop years of a commodity many elect to receive benefits with respect to either the 1990 or 1991 crop year of the commodity, but not both.

CHAPTER 4—ASSISTANCE FOR BIG HORN RIVER DRAINAGE SYSTEM

SEC. 2275. DISASTER ASSISTANCE TO PRODUCERS ON THE BIG HORN RIVER DRAINAGE SYSTEM LOCATION ON THE WIND RIVER INDIAN RESERVATION.

(a) IN GENERAL.—Effective only for providers on a farm who suffered losses due to drought induced by a lack of water as a result of Indian Tribal water rights adjudication affecting producers on that portion of the Big Horn River drainage system located on the Wind River Indian Reservation, Wyoming, for the 1990 crop of wheat, barley, oats, grass hay, and alfalfa hay, subject to subsection (b), the Secretary of Agriculture shall make disaster assistance available to such producers under similar terms and conditions as are prescribed under titles I and III of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note, 1961 note and 1941 note) for providing disaster assistance to producers for the 1989 crop of the commodity except that the assistance shall be limited to a total amount of $250,000.

(b) ADMINISTRATION.—Title I and III of the Disaster Assistance Act of 1989 shall apply to assistance provided under this section, except that for purposes of providing assistance under this section—

(1) terms and conditions of programs established for a crop referred to in subsection (a) shall apply to such assistance, including crop years, production adjustment programs, yields, acreage bases, established prices, advance deficiency payments, loan rates, crop insurance indemnities, and livestock emergency benefits;

(2) producers shall not be required to obtain multiperil crop insurance, as a condition of obtaining assistance under this section;

(3) in section 101(b)(4), for purposes of this section only—

(A) "1990 crops" shall be substituted for "1989 crops"; and

(B) "July 31, 1991" shall be substituted for "July 31, 1990";

(4) in section 102(b)(2)(A), for purposes of this section only "1989 minus acreage actually planted to the commodity for harvest in 1990" shall be substituted for "1988 minus acreage actually planted to the commodity for harvest in 1989";

(5) in section 102(b)(2)(B), for purposes of this section "1987, 1988, and 1989, minus acreage actually planted to the commodity for harvest 1989" shall be substituted for "1986, 1987, and 1988 minus acreage actually planted to the commodity for harvest in 1989"; and

(6) in section 152(a)(2), for purposes of this section "180 days after the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990" shall be substituted for "March 31, 1990".

(c) DEFERRAL ON REPAYMENTS.—The producers on a farm as specified in subsection (a) may elect, at the producer's option, to request and receive a 12-month deferral on payments of principal and interest due on (farm loans) insured or underwritten by the appropriate agency of the United States. The request for deferral shall be made in writing to the administrator of the applicable farm loan program and must be sent by certified mail to the nearest regional office. Written requests for deferral under subsection (c) shall be made within 60 days of the date of enactment of this Act.

Subtitle C—Miscellaneous Provisions

[SEC. 2281. EMERGENCY GRANTS TO ASSIST LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS.]

SEC. 2281. EMERGENCY GRANTS TO ASSIST LOW-INCOME FARMWORKERS AND PACKINGHOUSE WORKERS.

(a) IN GENERAL.—The Secretary of Agriculture may make grants, not to exceed $20,000,000 annually, to public agencies or private organizations with tax exempt status under section 501(c)(3) of the Internal Revenue Code of 1986, that have experience in providing emergency services to low-income migrant, *permanent* and seasonal farmworkers where the Secretary determines that a local, State or national emergency or disaster has caused low-income migrant, *permanent* or seasonal farmworkers to lose income, to be unable to work, or to stay home or return home in anticipation of work shortages. Emergency services to be provided with assistance re-

ceived under this section may include such types of assistance as the Secretary of Agriculture determines to be necessary and appropriate.

(b) DEFINITION.—For the purposes of this section, the term "low-income migrant, *permanent* or seasonal farmworker" means an individual *(including a packinghouse worker)*—

(1) who has, during any consecutive 12 month period within the preceding 24 month period, performed farm work *or packinghouse work* for wages;

(2) who has received not less than one-half of such individual's total income, or been employed at least one-half of total work time in farm work *or packinghouse work*; and

(3) whose annual family income within the 12 month period referred to in paragraph (1) does not exceed the higher of the poverty level or 70 percent of the lower living standard income level.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

CHAPTER 5—EMERGENCY AQUACULTURE PROVISIONS

SEC. 2276. EMERGENCY AQUACULTURE PROGRAM.

(a) IN GENERAL.—The Secretary shall implement an emergency aquaculture program to assist owners and operators of established commercial fresh water aquaculture operations in restoring the retention levees and other structural improvements that have been damaged by damaging weather or related condition in 1991.

(b) COST-SHARE.—Assistance under this section shall be provided through cost-share agreements entered into by the Secretary with the owners and operators for the restoration of the damaged levees and other structural improvements. The Secretary shall share half the costs incurred under each agreement based on damage surveys made pursuant to regulations issued by the Secretary.

(c) FUNDING.—

(1) IN GENERAL.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section as provided in section 2268.

(2) AUTHORIZATION OF APPROPRIATIONS.—Any benefits or assistance made available under this section shall be provided for a year only to the extent provided for in advance in appropriations Acts. To carry out this section, there are authorized to be appropriated $1,000,000 for fiscal year 1992. Sums appropriated under this subsection shall remain available until expended.

(3) PRORATION.—To ensure the equitable award of funds for agreements under this section as a result of the limitations in paragraphs (1) and (2), the Secretary may prorate, and adopt procedures to facilitate the proration of, funds made available under this section.

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TITLE VI—EMERGENCY LIVESTOCK FEED ASSISTANCE ACT OF 1988

SEC. 601. * * *
SEC. 602. * * *
SEC. 603. * * *

DETERMINATION OF NEED FOR ASSISTANCE

SEC. 604. (a)(1) Whenever the Governor of a State determines that a livestock emergency due to a natural disaster exists in the State, or a county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)) determines that such an emergency exists in the county, the Governor or county committee may submit a request for a determination by the Secretary of a livestock emergency in such State or county and for emergency livestock feed assistance under this title.

(2) The request of a Governor or county committee for a livestock emergency determination and for emergency livestock feed assistance shall include, to the extent feasible, recommendations to the Secretary of those options that will most fully use feed available through local sources.

(b) The Secretary may consider a State, county, or area in a State for a livestock emergency determination and emergency livestock feed assistance under this title whether or not a request for assistance is submitted, as described in subsection (a).

(c) The Secretary shall act on requests for determinations under subsection (a) and make final determinations on whether a livestock emergency exists in any State, county, or area, under regulations that ensure thorough and prompt action (not later than 30 days after receipt of any such request) and provide for appropriate notification procedures.

(d) The Secretary shall consider, if appropriate, the level of precipitation during a growing season in a State, county, or area in a State in making a determination whether to provide emergency livestock feed assistance or other additional assistance under this title.

[(d)**]** *(e)* Notwithstanding the preceding provisions of this section, any State, county, or area determined eligible, due to drought or related conditions in 1988, for the emergency feed program or emergency feed assistance program conducted prior to the effective date of this title [August 26, 1988] shall continue to be eligible for such programs and may be eligible for other programs under this title for such drought or related condition. As soon as practicable after the effective date of this title, the Secretary shall determine whether any of the programs described in section 606, other than the emergency feed program under section 606(a)(4) and the emergency feed assistance program under section 606(a)(2), or in section 607 should be made available in such State, county, or area. If the Secretary makes such determination, the Secretary shall make such programs immediately available to livestock producers in the State, county, or area.

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